

SMALL BUSINESS ADMINISTRATION

SIZE STANDARDS HEARING

77 West Jackson

Chicago, Illinois

June 20, 2005

REPORTED BY: CHERYL L. SANDECKI, CSR, RPR

L.A. REPORTING - (312) 419-9292

1 APPEARANCES:

2 MODERATOR/PANEL MEMBER: Hatem H. El-Gabri

3 PANEL MEMBER: Patrick E. Rea

4 PANEL MEMBER: Allegra F. McCullough

5 PANEL MEMBER: Robert P. Murphy

6 PANEL MEMBER: Judith A. Roussel

7 PANEL MEMBER: Carol L. Thompson

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1 MODERATOR EL-GABRI: Good morning.
2 This is a public hearing conducted by the
3 U.S. Small Business Administration at the
4 Ralph Metcalfe Federal Building in Chicago
5 pursuant to the notice of public hearing
6 published in the Federal Register on
7 May 12th, 2005.

8 The purpose of today's hearing is to
9 obtain the views of SBA's partners on how to
10 improve the agency's size standards and
11 whether businesses that are majority owned by
12 venture capital companies should be allowed
13 to participate in the small business
14 innovative research program.

15 My name is Hatem El-Gabri. I am the
16 senior counsel for the SBA's office of
17 general counsel. And I will be moderating
18 today's hearing.

19 Joining me on the panel are Allegra
20 McCullough, Patrick Rea, Judith Roussel and
21 Robert Murphy.

22 Allegra McCullough is the associate
23 deputy administrator for government
24 contracting and business development. In

1 this capacity Ms. McCullough is responsible
2 for the procurement assistance programs,
3 which ensures that small businesses receive
4 their fair share of federal government
5 contracts. Ms. McCullough is also
6 responsible for the delivery of SBA's
7 procurement assistance programs, which
8 assists small businesses seeking to sell
9 their products and services to the federal
10 government. She directs the agency's
11 business development programs, which include
12 the 8-A business development and small
13 disadvantaged business program as well as the
14 historically underutilized business zone,
15 better known as the HUB zone program.

16 Given Ms. McCullough's expertise,
17 experience and position, you can be certain
18 that she will ensure that the opinions and
19 ideas expressed at today's hearing are taken
20 into consideration when the SBA simplifies
21 and restructures the size standards to make
22 the size standards easier to understand and
23 use.

24 Patrick Rea is the regional

1 administrator for Region 5 of the SBA. As
2 regional administrator, Mr. Rea is the
3 principal representative of Administrator
4 Hector Barreto in the Midwest and provides an
5 essential link with regional, state and local
6 elected and appointed officials and with
7 great organizations and small business
8 communities across the region.

9 Judith Roussel is the Illinois
10 district director for the SBA. In this
11 capacity she is responsible for the promotion
12 and delivery of U.S. government sponsored
13 programs providing capital access,
14 entrepreneurial development, international
15 trade development and procurement assistance
16 to Illinois' nearly one million small
17 businesses.

18 Ms. Roussel has also served in
19 senior acquisitions with SBA in the area of
20 government contracting.

21 Robert Murphy is the Area 4 director
22 for government contracting at the SBA. In
23 this position Mr. Murphy is responsible for
24 the administration of SBA's government

1 contracting program throughout the 12-state
2 SBA Midwest area.

3 Patrick Rea, the regional
4 administrator for Region 5, will now give the
5 opening remark for today's hearing.

6 MR. REA: I probably don't need the
7 microphone, but I will go ahead and make it a
8 little bit easier for those in the back of
9 the room to hear me.

10 Good morning and welcome to the
11 Chicago size standard hearings. This also
12 will cover much of the Midwest, which are my
13 six states. And as regional administrator,
14 my states run from Ohio to Minnesota.

15 And to give you some idea of
16 dimensions and input -- and I see some
17 friends in the audience -- we have 51, almost
18 52 million people. It is one of the largest
19 regions in the United States for SBA. There
20 are ten regions. We have, obviously, six
21 states, 12 Congressmen -- 12 Senators, 76
22 Congressmen.

23 But to give you some idea of the
24 dimension of the economics both of SBA and of

1 my region, over 50 percent of all of the
2 gross domestic product of the United States
3 comes under the Small Business Administration
4 definitions today, the sizes.

5 It is 99.7 percent of all the
6 businesses. Well, that's nice, but what does
7 it really mean in size? In size if the small
8 businesses of America were just the small
9 businesses of America, they would be by far
10 the largest economy in the world. That isn't
11 often looked at it that way. But small
12 business America is by itself by far the
13 largest economy in the world.

14 In the Midwest we have the 51
15 million, almost 52 million I spoke of. The
16 gross state product of the Midwestern states,
17 the six I mentioned, is about \$1.8 trillion.
18 Just in case you wondered, it is still
19 comfortably above the total gross domestic
20 product of China or Germany, which are in
21 line. Only Japan is bigger than our six
22 Midwestern states in economic sufficiency as
23 far as gross state or gross domestic product
24 is concerned.

1 The mission of the SBA is to
2 maintain the nation's economy by aiding,
3 counseling, assisting and protecting the
4 interests of small business and by helping
5 families and businesses recover from natural
6 disasters.

7 The size standards, which are
8 fundamental within SBA, since that determines
9 which businesses are eligible for SBA
10 assistance, are small business preferences or
11 federal set-asides and small business
12 assistance from other federal programs and
13 regulators. The purpose of today's hearing
14 is to hear from you on issues pertaining to
15 size standards, in particular on ways SBA
16 might simplify size standards and other ideas
17 to make sure the sizes are easier to
18 understand and for use by our citizens.

19 The testimony presented today on
20 size standards along with other comments we
21 received in the December of '04 advanced
22 notice of proposed rulemaking will be used to
23 help SBA develop new proposals to further
24 these objectives.

1 On behalf of myself, our president,
2 and Administrator Hector Barreto, we thank
3 you for taking the time out of your
4 schedules. And folks will arrive and depart
5 all day long to be part of this effort.

6 We anticipate over 50 people
7 testifying today and another 60 or more of
8 you coming in and out. So this will be one
9 of the largest-size hearings in the United
10 States going around our country.

11 With that, I will turn this back to
12 Hatem, who is regional chief counsel. And he
13 will conduct the hearings today and point out
14 the ground rules which are fairly basic and
15 to be supportive as much as possible for your
16 testimony. Thank you.

17 MODERATOR EL-GABRI: Thank you, Pat.
18 Before we begin taking public testimony, I
19 would like to explain the format for the
20 hearing and to go over the ground rules with
21 respect to oral testimony.

22 First of all, as published in the
23 Federal Register, today's hearing is
24 scheduled to last until 5:30 p.m. The

1 hearing will be adjourned earlier if everyone
2 interested in testifying has had the
3 opportunity to do so prior to 5:30 p.m. We
4 will break for lunch at 12:30 and resume at
5 1:30 with a few breaks throughout the day as
6 needed.

7 Sixty-six individuals registered to
8 attend today's hearing, 52 of whom registered
9 to testify. If there is anyone present in
10 the hearing room who did not preregister to
11 provide oral testimony but now wishes to do
12 so, please speak to Carol Bletz at the
13 registration table so that your name can be
14 added to the list.

15 If there is still time after those
16 who preregistered are finished testifying, we
17 will be happy to accept your oral testimony
18 as well.

19 All oral testimony presented at
20 today's hearing will be recorded and
21 transcribed by the agency's reporter.

22 If you haven't already done so, I
23 request of anyone scheduled to testify to
24 please place on the registration table copies

1 of your written testimony and any
2 supplemental materials you would like SBA to
3 consider.

4 All of the testimony at today's
5 hearing, whether written or oral, as well as
6 any supplemental materials you provide, will
7 become part of the administrative record that
8 SBA will consider when it resumes
9 deliberations on how to improve its size
10 standards and related regulations such as
11 those pertaining to the SBIR program.

12 In a nutshell the proposed rule to
13 restructure SBA business size standards was
14 issued on March 19th, 2004, and called for
15 reducing the number of size standards levels
16 from 37 to 10 and converting receipt-based
17 size standards to employee-based size
18 standards.

19 After studying the concerns
20 expressed by the public in response to SBA's
21 request for comments on the proposed rule,
22 the SBA decided that it needed to gather
23 additional public input on a number of
24 issues, most of which were raised in the

1 comments. Therefore, the agency withdrew the
2 proposed rule and decided to pursue the
3 following two courses of action to gather
4 more public input.

5 First, on December 3rd, 2004, the
6 SBA published an advanced notice of proposed
7 rulemaking requesting comments on how to
8 simplify and improve SBA size standards in
9 general, and our 11 specific topics, most of
10 which were based on the comments to the
11 proposed rule and related policy issues.

12 And second, the SBA decided to
13 conduct a series of public hearings
14 throughout the country to provide interested
15 parties with an opportunity to meet with SBA
16 officials and express their views on size
17 standards in general as well as the 11 topics
18 specified in the advanced notice of proposed
19 rulemaking.

20 This is one of those series of
21 public hearings. Copies of the proposed
22 rules as well as the advanced notice of
23 proposed rulemaking are available at the
24 registration table.

1 This brings us to the ground rules
2 for today's hearing. As stated in the notice
3 of public hearing, if you would like to
4 testify at today's hearing, your testimony
5 must pertain to either the general topic of
6 how to make SBA size standards easier to use
7 and understand or one or more of the 11
8 specific topics identified in the advanced
9 notice of proposed rulemaking, which are,
10 one, the approach to simplify size standards;
11 two, the calculation of the number of
12 employees, including how SBA defines an
13 employee for size purposes; three, the use of
14 receipt-based size standards; four, the
15 designation of size standards for federal
16 procurement; five, the establishment of
17 separate and distinct size standards for use
18 solely in federal procurement programs; six,
19 the establishment of tiered-size standards;
20 seven, the simplification of the affiliation
21 regulations; eight, the simplification of the
22 small business joint venture eligibility
23 regulations; nine, the proposed
24 grandfathering of small business eligibility;

1 ten, the impact of SBA size standards on the
2 regulations of other federal agencies; and
3 eleven, the possible participation of
4 businesses majority owned by venture capital
5 companies and the small business integration
6 research program and the effect that such
7 participation would have on the program.

8 Pursuant to the notice of public
9 hearing, if you appear to be veering off
10 topic, I will interrupt you and ask you to
11 stay on topic.

12 Today's hearing is not the place to
13 petition for a change to a specific size
14 standard. If you would like SBA to change a
15 specific existing size standard or to
16 establish a new one for an emerging industry,
17 you should send a written request to the
18 Assistant Administrator for Size Standards,
19 Small Business Administration, 409 Third
20 Street, Southwest, Washington DC 20416. If
21 you didn't get the address, talk to me
22 afterwards and I will be happy to give you
23 the address again.

24 If you have issues pertaining to

1 other aspects of the SBA's operation, please
2 speak to one of the individuals at the
3 registration tables who can help you get in
4 touch with an agency official who can address
5 your concerns.

6 Individuals will be called to
7 testify in the order established by the
8 preregistration sign-up sheet. When you hear
9 your name, please step up to the podium and
10 use the microphone to address the panel.

11 Before you begin your testimony,
12 please state your name and title as well as
13 the name of the organization on whose behalf
14 you are testifying.

15 Oral testimony will be limited to
16 five minutes per speaker. Robert Zelenik,
17 who will be serving as the timekeeper, will
18 display a green card when you have one minute
19 left, a yellow card when you have 30 seconds
20 left and a red card when your allotted time
21 has expired.

22 Your views and opinions are valuable
23 to the SBA. And we would like to hear from
24 everyone interested in testifying. In order

1 to make sure we do, I will strictly enforce
2 the time limit.

3 Please note that once you have
4 finished your presentation, panel members may
5 ask you questions to ensure that we
6 understand your views and positions so that
7 the agency can take them into consideration
8 when it resumes its deliberations on these
9 important issues.

10 Finally, because the purpose of the
11 hearing is to gather your opinions and ideas,
12 members of the panel will not indicate
13 whether or not they agree or disagree with
14 the presenter's views or engage in debate
15 with them.

16 We would like to begin accepting
17 public testimony. The first speaker will be
18 Mr. Chuck Oehler followed by Mr. Jerry Wang.
19 If Mr. Chuck Oehler is here, would you please
20 come to the microphone?

21 Since Mr. Oehler is not here as of
22 yet, Mr. Jerry Wang. He is not here either.

23 Ms. Marjorie Herter. I am sorry if
24 I am mispronouncing your name.

1 MS. HERTER: You pronounced it
2 correctly. I am Marjorie Herter. I am
3 president of Vee See Construction Company
4 located in Oak Lawn, Illinois. My company
5 provides general contracting services, mostly
6 to public entities on federal, state and
7 local levels.

8 The SBA size standard for my
9 business is \$28.5 million. And my company
10 company's revenues range between three and
11 five million.

12 I am here today representing Women
13 Construction Owners and Executives, an
14 association nationally composed of women
15 owners of construction businesses and policy
16 making executives in the construction
17 industry.

18 I am one of the women who founded
19 the organization in 1984 and have served as
20 its national president.

21 Of course, small business is the
22 primary avenue through which women enter the
23 business community, especially in the
24 construction industry. Small women-owned

1 businesses should be encouraged since
2 women-owned businesses have more employees
3 than all the Fortune 500 companies combined.

4 We are particularly concerned with
5 the restructuring of the SBA size standards
6 and the effects it will have on small
7 businesses such as my own.

8 Today my remarks will address the
9 basis of the size standards, employees or
10 receipts.

11 Construction work is cyclical. Most
12 contractors work more hours and employ many
13 more employees in the summer months than the
14 winter. Much of our work can be dependent on
15 weather conditions. The influx of employees
16 varies greatly from season to season and from
17 year to year. And for employees -- employers
18 who travel to different parts of the state or
19 within the country and hire through local
20 hiring halls, these contractors can employ
21 hundreds of employees over the course of the
22 year, but very few of them on a full-time
23 basis.

24 As a result, determining an

1 appropriate size standard based on the number
2 of employees as currently calculated for the
3 construction industry is not a true and
4 accurate indicator of small business size.

5 If, however, a size standard for
6 construction is to be employee-based, as is
7 being considered, then the method for
8 counting employees must be reassessed. Most
9 construction trade employees are paid hourly.
10 Thus, hours worked could be an appropriate
11 measure to provide a count of the employees
12 annualized on a full-time basis. This would
13 eliminate the issue of part-time workers
14 being counted the same as full-time
15 employees.

16 The count of employees could be
17 derived by dividing the total number of hours
18 worked per annum by 2,000, assuming a
19 full-time employee works 2,000 hours per
20 year. This levels the field in determining
21 employee count. Employee hours are easily
22 reported from our current payroll systems,
23 maintaining a current time period. Using the
24 current SBA 12-month rolling is inappropriate

1 and it takes out the seasonality in
2 construction.

3 Now, deciding what constitutes the
4 ceiling for the size standard I understand is
5 a whole other issue that we are not
6 considering today. I would caution, however,
7 that determining one size for all types of
8 construction companies is not an appropriate
9 standard. General contractors who do not
10 self perform work would have few employees
11 and would be classified as small when in
12 reality their revenues and share of the
13 marketplace they are large concerns.

14 Regarding the use of receipts-based
15 size standards, gross receipts can be an
16 appropriate measure for construction
17 companies, but as with employee-based, only
18 if there are as many standards as there are
19 different types of construction companies.

20 Each NAICS code must be considered
21 individually by subsector. For example, to
22 lump all specialty contractors under one
23 revenue size is not a true indication of
24 small business.

1 Determining receipts based on
2 federal tax returns is an easy and
3 appropriate methodology.

4 Regardless of the SBA'S decision to
5 use employees or receipts as its standard,
6 WCOE urges that the ceiling be set to truly
7 reflect small construction businesses.

8 Under current size standards, too
9 many contracts are being awarded to allegedly
10 small businesses by long-time successful
11 large companies with multi-million dollars in
12 assets and receipts. Thank you for your
13 time.

14 MODERATOR EL-GABRI: Thank you,
15 Ms. Herter.

16 Anyone on the panel have any
17 questions for Ms. Hurter? Thank you so much.

18 Next speaker, Mr. Travis Powers.

19 MR. POWERS: Good morning. I am
20 Travis Powers co-founder and senior partner
21 of Escendent, LLC, an information technology
22 services, a professional services company
23 based in Chicago, Illinois, here in the
24 downtown area.

1 To the presiding Small Business
2 Administration officials and governing board,
3 we the partners of Escendent, LLC, a
4 two-year-old certified minority business
5 enterprise and small disadvantaged business,
6 would like to recommend that the newly
7 proposed SBA small business standards be
8 tiered.

9 It has been our experience in the
10 competitive industry of information
11 technology that no preference is given to
12 early rising companies bidding for government
13 contracts. With the federal government
14 procurement process predicated on past
15 performance and best value, it leaves little
16 chance for small business to, quote/unquote,
17 earn their stripes in an effort to obtain the
18 visibility, viability and credibility needed
19 to compete with the large entities they are
20 in.

21 In our first two years of operation,
22 we have been blessed with the fortune of
23 subcontracting to a large prime on two
24 federal contracts. Within the first month,

1 we realized that the other subs, competitors,
2 were not like us. They were termed,
3 quote/unquote, small but had more experience,
4 greater resources and were better positioned
5 with a large prime contract.

6 In short the stage was set for us to
7 fail. It would have been all too common if
8 we had been given the opportunity and not
9 performed. And while that is not our story,
10 we understand we are the exception.

11 We strongly support the notion of a
12 level playing field and encourage all
13 businesses to be offered a fair market to
14 compete in.

15 It is with this premise in mind that
16 we look outside the initially proposed
17 minimum standards to support the need for
18 access, growth and sustainability of small
19 companies, inherently avoiding potential
20 vulnerabilities and downstream effects which
21 could negatively impact our chance to remain
22 competitive with great risk in becoming a
23 nonexistent business community.

24 We are not asking for a handout,

1 rather to be counted when the invites to the
2 proverbial table are given. We believe
3 supporting a tiered system will afford us the
4 best opportunity for strategic streamlined
5 approach facilitating the access to larger
6 federal contracting awards, additionally,
7 affording the contracting entity a better
8 understanding of the experience level of a
9 proposed subcontractor and allowing for light
10 competition within the various tiers,
11 creating a true small business
12 infrastructure.

13 Thanks for your time.

14 MODERATOR EL-GABRI: Thank you. Any
15 questions by the panel?

16 Next speaker is Ms. Linda McIssaac.
17 Next speaker is Mr. John Kim. Next speaker
18 is Mr. Mathew Vranicar. Next speaker is
19 Mr. George Jackson. Next speaker is
20 Mr. Melvin Buckingham. Next speaker is Chris
21 Ferry.

22 The next speaker is Ms. Meriellyn
23 Kett.

24 MS. KETT: Good morning. I am

1 Dr. Meriellyn Kett. I own an engineering
2 design and manufacturing company. It is
3 located in Elk Grove Village, which is the
4 largest industrial park in the United States.

5 And I am here speaking for my
6 company and also for the other small
7 businesses that we work with out there.

8 I would like to address three of the
9 issues. One is size. The second is
10 grandfathering. And the third is deciding
11 whether to allow large companies with venture
12 capital resources to invest in small
13 companies.

14 One hundred percent of our business
15 is with the federal government. I make the
16 M242 machine guns here. I do manifold
17 assemblies for the Hollisters. I do Mark 19
18 machine gun gun sites. I am bidding on the
19 50-caliber suppressor. I am bidding on a
20 number of -- a new system that is going to
21 Picatinny Arsenal. The two places that I
22 make offers to are the Rock Island Arsenal
23 and Picatinny Arsenal.

24 We feel very strongly, my colleagues

1 and I, that small business should be defined
2 as 100 people, 100 employees. We don't care
3 if you do it by hours or -- I am sure we can
4 arrive at some sensible way.

5 There is nothing more irritating
6 than having a solicitation across your desk
7 and see that there is a small business
8 set-aside and find out that the small
9 business set-aside is 1,000. And I have
10 seen it as high as 2,500 employees.

11 It just makes a mockery of the whole
12 notion of what small business is. We believe
13 it should be 100 employees.

14 I don't -- I understand that you
15 might want to have some sort of tiers. I can
16 simply tell you from dealing with the arsenal
17 right now time is in critical short supply.
18 Not only are weapons in critical short
19 supply, but time is in critical short supply.

20 I urge you, whatever decision you
21 make, to make it simple. Because the people
22 at the arsenal who are buying are extremely
23 busy. People are -- and mistakes are being
24 made. Let's not have some absurd thing

1 taking up their time.

2 So I am arguing on the basis of
3 expediency. I am suggesting employee count
4 rather than dollar volume because a small
5 company, we might have out at any time 100
6 offers. We are a very good bidder. We only
7 pick the things we can win, things we think
8 we can make money on. And I win about
9 12 percent of the stuff I bid, which is a
10 good win rate. But I could win something and
11 my whole company, which has ten employees,
12 could be taken up with making something that
13 costs -- 600 of something that costs \$4.25.
14 And next week I could win a contract for the
15 semi-automatic sniper system, which is I
16 think 3,000 guns, but it is going to catapult
17 me into \$27 million in revenue. And I can't
18 know what that is. And I wouldn't want it to
19 change mid stride. What happens to all my
20 other bids?

21 I think that if you decide to return
22 to the business standard of 100 -- let's not
23 have grandfathering that goes on forever and
24 ever.

1 I am not asking that a company that
2 has a three-year contract have that -- I am
3 not asking to have that contract suspended.
4 But I think when that ends, that should end.

5 I am also opposed to allowing the
6 venture capital arms of large companies to
7 invest in small companies. My main
8 competitor is a billion dollar company. It
9 is a household name. You know this company.
10 And I continue to be outraged not simply as a
11 business owner but as a taxpayer of the
12 advantages that they get in contracting.

13 We bid on the 50-caliber sniper
14 rifle, which is Stellite lined. We have a
15 100 percent quality rating and 100 percent on
16 time rating. And we have extreme experience
17 in working with super alloys like Stellite
18 and Mirage and steel. We have been doing it
19 for 12 years.

20 This company bid five and a half
21 million dollars more than we did on the
22 contract and won. Their small business
23 participation involved purchasing lubricant
24 for their cutting materials and that was

1 deemed adequate.

2 Later on we spent \$10,000 hiring a
3 bid protest specialist to represent us. We
4 learned at the debriefing at the arsenal that
5 their gun cannot pass an accuracy test. It
6 can't hit a target, an eight-inch target
7 100 feet away, not 100 yards away.

8 Friends of my daughter are in Iraq.
9 My gun can do that.

10 They had immense financial resources
11 and said they were going to follow every --
12 what is the word -- legal remedy. And this
13 part was in critical short supply.

14 That is why I feel we should reduce
15 it to 100 and we should put some real teeth
16 into what it means to be judged on small
17 business participation. Thank you.

18 MODERATOR EL-GABRI: Thank you,
19 Dr. Kett. Anyone on the panel? Rob?

20 MR. MURPHY: One quick question of
21 clarification. When you say that 100
22 employees should be the size standard, are
23 you talking about your industry or are you
24 talking about manufacturing or are you

1 talking about all industries in the economy
2 being 100?

3 MS. KETT: Probably manufacturing,
4 but particularly defense manufacturing.

5 MR. MURPHY: Defense manufacturing?

6 MS. KETT: Yes.

7 MODERATOR EL-GABRI: Any other
8 questions?

9 Next speaker is Ms. Lorine Samuels.
10 Next speaker is Mr. Floyd Rose. Ms. Marina
11 Houghton. Mr. Jim Britton.

12 MR. BRITTON: Good morning. I am
13 Jim Britton. I am a business owner from
14 Springfield, Illinois. I am in the
15 employment and staffing business. It is my
16 understanding that one of the topics to be
17 discussed is the relationship of franchisors
18 and franchisees in the temporary staffing
19 industry.

20 And I am here because I found that I
21 am not viewed by the SBA as a small business
22 owner and cannot qualify for certain business
23 opportunities. And it is tied to my
24 relationship with Express Personnel Services,

1 a franchisor of temporary staffing.

2 I am here with another franchisee of
3 Express. And there may be some commonality
4 in our comments.

5 I have been -- my story is a little
6 different than some of the others in that I
7 have been a small business owner in the
8 staffing business since 1980, which was
9 before Express Personnel even began business.
10 In 1986 I purchased the Express franchise for
11 Springfield, Illinois. I purchased the
12 franchise. And I use Express to assist me in
13 certain aspects of my business.

14 There are a number of rights and
15 services that I have purchased by this
16 relationship. Examples are I do have the
17 right to use their name in my business. I do
18 utilize their training materials and their
19 training courses. And Express does provide
20 me with certain back office support functions
21 for the temporary help portion of my
22 business, which includes payroll and billing
23 services, which if I was not part of a
24 franchise, I could purchase those from other

1 vendors, funding of my accounts receivable.
2 And there are other funding companies, so
3 there is similarity there. And the
4 development and production of marketing and
5 promotional materials.

6 So, basically, I have just
7 outsourced many of those functions to a
8 franchise company for my benefit.

9 My business is an independent
10 corporation. It is wholly-owned by myself
11 and my wife. Our corporation has its own
12 federal employer identification numbers,
13 state and tax -- state and local tax
14 identification number. And we have our own
15 workers compensation account numbers for our
16 staff, state unemployment account. It is
17 separate and distinct from the franchisor,
18 express services.

19 They have no responsibility or
20 oversight for my day-to-day business
21 operations.

22 I am responsible for covering all
23 overhead costs, securing and repaying any and
24 all business loans. My office space I am on

1 the lease. The franchisor is not. There is
2 no recourse that any creditor has to my
3 franchise company. They only have recourse
4 to me.

5 I pay federal, state and local
6 income taxes for my staff as well as the
7 employer's share of Social Security, federal
8 and state unemployment taxes and workers'
9 compensation. I provide fringe benefits to
10 my staff including health and life insurance
11 as well as vacation and holiday leave.

12 I have my own employee handbooks and
13 policies. I hire my own accountants and
14 attorneys to assist me with the financial and
15 business issues.

16 As an independent franchise owner,
17 as a business owner, I have the sole
18 responsibility for the credit and collection
19 process. Should one of my clients fail to
20 pay an invoice, it is my business, I bear the
21 entire burden of that, not the franchisor.

22 So I would ask you to consider these
23 factors, which include I have all the
24 financial risk and responsibility of the

1 business. I have day-to-day control of the
2 business, the operations and make choices of
3 my own regarding what vendors I use and what
4 suppliers I use. I provide all the financing
5 for my own business. And all the recourse
6 for indebtedness is mine. And there is no
7 common ownership or management by the
8 franchise owner. Thank you very much.

9 MODERATOR EL-GABRI: Thank you.
10 Anyone on the panel have any questions?

11 Next speaker is Mr. Thomas
12 Churchwell.

13 MR. CHURCHWELL: Good morning. My
14 name is Tom Churchwell. I am a managing
15 partner of ARCH Development Partners. We are
16 a small venture capital company in Chicago
17 and West Lafayette, Indiana. We invest
18 exclusively in start-up businesses in the
19 upper Midwest area.

20 I am here to talk about SBIRs. I
21 would a like to thank the SBA and the members
22 of the hearing panel for conducting this
23 series of hearings. It is an important
24 issue, and we hope to contribute to it.

1 My partners and I are members of a
2 number of organizations that were involved in
3 or concerned with these discussions. And I
4 have been authorized to speak on their behalf
5 as well. They are the Biotechnology
6 Organization, the Illinois Biotechnology
7 Organization, the Illinois Venture Capital
8 Association, the National Venture Capital
9 Association and Midwest Health Investors
10 Network.

11 My comments today will focus on an
12 issue that directly affects my company as
13 well as many biotech companies. And that is
14 the obstacle to the participation in the
15 small business innovation research program by
16 businesses that are majority owned by venture
17 capital companies such as mine.

18 The SBIR program is an important
19 source of funding for early stage
20 biotechnology companies. Specifically, small
21 biotech companies rely on phase I and
22 phase II grants to fund cutting-edge research
23 in areas where venture capital and other
24 sources of financing are difficult to obtain,

1 especially true here in the Midwest.

2 However, to be eligible for an SBIR
3 award, business concern must be 51 percent
4 owned and controlled by individuals who are
5 individuals of the United States. In
6 addition, the concern may not have more than
7 500 employees including its affiliates.

8 Through a series of rulings, SBA's
9 office of hearing and appeals has interpreted
10 the term individuals to mean human beings.
11 This interpretation excludes corporations
12 and all other forms of unofficial entities,
13 including venture capital companies.

14 There is no statutory requirement
15 that compels this interpretation, nor is
16 there a definition of the term individual in
17 the law establishing the SBIR program.

18 As a result, many small businesses
19 in the biotechnology sector cannot
20 participate in the SBIR program because one
21 or more of their owners or investors is a
22 corporate entity or a venture capital
23 program.

24 The unnecessary exclusion of those

1 small businesses is not consistent with the
2 purpose of the SBIR program, which stimulates
3 small business that will commercialize
4 important technology development.

5 Exclusion could also lead to the
6 decline in quality and quantity of SBIR grant
7 applications submitted to NIH and other
8 agencies involved in bioterrorism and
9 important health-related activities.

10 As you may know, very early stage
11 venture funding is very difficult for biotech
12 companies to find, especially here in the
13 Midwest. Most of the companies who aren't
14 portfolio made effective use of SBIRs. And
15 we regard this as an absolutely critical
16 resource without which many of them may not
17 survive.

18 In early 2005 the Biotech Industry
19 Organization conducted an informal survey of
20 its member active in the SBIR community.
21 Survey results confirm the SBA's
22 interpretations limiting many small
23 biotechnology companies in participating in
24 the SBIR program.

1 Although over 70 percent of the
2 survey respondents were privately owned small
3 business with less than 50 employees, many of
4 them reported that they are ineligible to
5 receive SBIR grants. Specifically, of the
6 privately held companies, 70 percent are
7 majority owned and controlled by multiple
8 venture capital companies. The number of
9 venture capitalists that have an equity stake
10 in the small businesses range from two to 22.
11 Only one venture capital company has an
12 equity stake greater than 40 percent, while
13 most of VCs own between seven and 30 percent
14 of the small businesses.

15 Over the last five years, 62 percent
16 of the survey respondents public and private
17 applied for SBIR grants. Finally, 60 percent
18 of the privately-held companies responded
19 that they had chose not to apply for SBIR
20 grants.

21 To remove this barrier to the SBIR
22 program, we urge the SBA to revise the SBIR
23 eligibility requirements and issue a proposed
24 rule that reflects Congress' original intent

1 to encourage awards to small businesses that
2 are successfully attracted outside investors.

3 The approach proposed by the SBA in
4 December is a small step and does not address
5 the fundamental obstacle issue, which is
6 SBA's requirement that small businesses be
7 majority owned and controlled by individual
8 human beings.

9 If these proposed changes are
10 enacted, small businesses with ownership
11 structures similar to mine will be able to
12 take advantage of the important program and
13 participate in research efforts that are
14 critical to our nation's health and safety
15 and security. Thank you very much.

16 MODERATOR EL-GABRI: Thank you,
17 Mr. Churchwell. Any questions by member of
18 the panel?

19 Next speaker is Ms. Sakina Basir.
20 Mr. Mike Edwards.

21 MR. EDWARDS: Good morning. My name
22 is Mike Edwards. I am president of the
23 Triton Manufacturing Company, Incorporated,
24 located currently in Monee, Illinois. We are

1 a manufacturer of low-voltage power cables
2 and buspar (sic) systems for high-amperage
3 applications.

4 We have currently about 90
5 employees. We started with three employees
6 in 1967. And we have been a member of, of
7 course, small business since that time.

8 I feel that what we are looking at
9 today is big government, big decisions, big
10 tiers instead of looking at what is the
11 purpose of the Small Business Administration.
12 In my mind the purpose of the Small Business
13 Administration is to help small business.
14 When we define a small business of 500
15 employees, of 1,000 employees or 1,500
16 employees, possibly up to 2,500 employees in
17 some cases, it is ludicrous.

18 The idea of small business, as we
19 know, only two percent of small business in
20 the United States has more than 100
21 employees. By the own reckoning of the Small
22 Business Administration, the majority of
23 small businesses are 20 employees or less.

24 The idea of larger corporations

1 owning pieces of small business and getting
2 the same set-asides for small business as the
3 true small business is again ludicrous.

4 What we are trying to do in small
5 business is to separate the large, the
6 multi-continent, the multi-control
7 corporations from the true entrepreneurship.

8 We have again 90 people in our
9 employ, employees of 17 different countries.
10 And they truly are participating in the
11 American -- in the great American dream
12 through small business.

13 We would not be able to participate,
14 and especially on our government-size
15 programs, without small business set-asides.
16 The idea of larger corporations or connected
17 corporations being able to have the same
18 advantages without making a distinct
19 difference between a small business and a
20 small connected business or a 51 percent
21 controlled business or a 51 percent
22 franchisee business as opposed to an
23 entrepreneurship is difficult to understand.
24 Because if we are going to have Small

1 Business Administration, let it be for small
2 businesses.

3 Thank you very much.

4 MODERATOR EL-GABRI: Thank you,
5 Mr. Edwards. Any questions by members of the
6 panel?

7 Next speaker is Mr. Russell Freeman.

8 MR. FREEMAN: Thank you. That will
9 be a tough act to follow.

10 My name is Russell Freeman. I am
11 currently the president of Coyne American
12 Institute and American Institute of
13 Occupational Trades, Incorporated, which is a
14 subsidiary of Coyne American Institute.

15 At AIOT we are a small business
16 subcontractor for the government at Jobs
17 Corps Centers around the United States. AIOT
18 had total revenues last year of approximately
19 \$1 million.

20 Because of the growth of Coyne
21 American Institute, which is located here in
22 Chicago, in the career college industry, AIOT
23 may no longer be eligible for classification
24 as a small business. Specifically, the ANPRM

1 NAICS standard for us is \$6 million combined.
2 I own 100 percent of both companies.

3 I do not believe the SBA should use
4 a receipt-based standard to designate that a
5 company is a small business. If the SBA
6 continues to use this receipt-based standard,
7 I believe it should be raised to \$10 million.
8 However, I am in favor of an employee-based
9 size standard to determine if a company is a
10 small business.

11 Between my two corporations, I
12 currently have 84 employees. I believe the
13 SBA should designate as a small business any
14 company that has up to 125 full-time
15 employees. You can measure it by hours as
16 other speakers have said or by status by --
17 you know, by hours worked, 40 hours per week
18 or 30 hours per week full-time.

19 In my opinion companies should have
20 a choice either to use an employee-based size
21 standard or receipts-based size standard. I
22 fully agree with other speakers to say that a
23 company with up to 500 or 2,500 employees is
24 truly a small business. I really don't buy

1 into that. It is kind of ridiculous in my
2 opinion.

3 Finally, I don't believe that the
4 SBA should provide an exclusion from
5 affiliation for venture capital companies in
6 size determinations for eligibility for the
7 SBIR program, certainly, as it applies to
8 education which I am in. Venture capital
9 companies should live by the same rules as
10 other contracting companies and other small
11 businesses when it comes to size standards.

12 If the VCC owns or has control of
13 another firm in which they invest, they
14 should be considered affiliated with that
15 firm.

16 Let me give you one example from
17 Coyne American Institute, which is a career
18 college with two locations here in Chicago.
19 Venture companies have come in our career
20 college industry very much so over the last
21 ten years. I met with three of them a few
22 years ago, and they were all trying to give
23 me the financing for five to seven years at
24 which time I would agree to sell my company.

1 And this -- you know, in the attempt to roll
2 up or other options is not the spirit of what
3 I designate as a small business. So I stayed
4 away from that and continue to run today my
5 two companies. Thank you.

6 MODERATOR EL-GABRI: Thank you. Any
7 questions?

8 Next speaker is Ms. Darwin Airola.
9 Darwin Airola?

10 Next speaker, Ms. Vasanthi Hangovan.
11 I apologize if I mispronounced your name.

12 MS. HANGOVAN: Thank you for the
13 opportunity to testify at the hearing. I am
14 president of the Viva USA, Inc., an
15 information technology consulting firm
16 located in Rolling Meadows, Illinois. We
17 provide systems integration, staff
18 augmentation and application development.

19 We are a minority women-owned
20 business and 8-A certified firm. We have
21 over 150 employees in U.S.

22 I am here to speak more to size
23 standard, grandfathering tier systems,
24 corporate venture capitalists. If you

1 increase the size standard, we will get
2 effected. And most of the times we are
3 competing with the large businesses in almost
4 all the contracts. So we ask you to enforce
5 the law strictly on large businesses. They
6 are not small businesses. So please enforce
7 the law of the large businesses. Thank you.

8 MODERATOR EL-GABRI: Thank you. Any
9 questions?

10 MS. McCULLOUGH: Just one thing, a
11 few people have talked about a grandfathering
12 tiered system. There is no set
13 grandfathering tiered system in federal
14 procurement.

15 MS. HANGOVAN: Can you repeat?

16 MS. McCULLOUGH: I said a few people
17 have talked about a grandfathered tiered
18 system. There is no grandfathered tiered
19 system within the federal procurement.

20 MS. HANGOVAN: Grandfathering is
21 different?

22 MS. McCULLOUGH: There is no
23 grandfathering proposal or grandfathering
24 policy that exists in SBA policy.

1 MS. HANGOVAN: Okay.

2 MODERATOR EL-GABRI: Next speaker is
3 Mr. David Suarez. Next is Carol Berger.

4 MS. BERGER: Good morning. I am
5 going to speak briefly today on the concept
6 of employee size options and my personal
7 experiences. My name is Carol Berger. And I
8 am the founder and past president of the
9 C. Berger Group, Incorporated, CBG, which is
10 one of the nation's oldest and largest
11 women-owned library consulting and staffing
12 firms.

13 I appreciate being given the
14 opportunity today to testify at this hearing
15 regarding SBA's desire to reform the size
16 standards by which small businesses are
17 defined by the federal government.

18 After almost 23 years in this niche
19 market, which provides critical support for
20 activities of public, government agency, law
21 firm, association, corporate and academic
22 libraries, I can recall many occasions when
23 CBG would have been excluded from bidding on
24 or receiving contracts if the standards

1 proposed today by SBA had been in force at
2 the time because larger competitors would
3 have gotten their jobs that -- or the
4 contracts that we did.

5 This would have resulted in a large
6 lack of income for our firm causing extreme
7 financial hardship in already difficult times
8 and probably forcing it to close.

9 I firmly believe that CBG has been
10 able to survive and thrive because of access
11 to small business and women-owned set-asides.
12 And we are not alone in this independence.

13 CBG is fortunate in the past to have
14 grown as the last SBA size standard was
15 raised to 500. But it is ludicrous at best
16 to expect the majority of U.S. businesses,
17 which now have fewer than 100 employees, to
18 expand to meet the 1,000 or the 1,500
19 employee limits.

20 Creating tiered systems will force
21 true small businesses to compete against
22 large companies for small contracts targeted
23 rightly for us. This will further limit
24 opportunities for us while adding to the

1 already large coffers of large companies.

2 Rather than monkey with changes to
3 the size standards by raising the limits or
4 including exemptions for venture capital
5 company affiliations or franchisees, the SBA
6 should concentrate on enforcing the laws that
7 already exist. This will ensure that large
8 firms who misrepresent themselves are singled
9 out and punished and every class of business
10 can benefit. Thank you.

11 MODERATOR EL-GABRI: Thank you. Any
12 questions by members of the panel?

13 Next speaker is Mr. David Friedman.
14 Ms. Joyce Osborne. Ms. Shree Yerramsetti.
15 Mr. Willie Fields. Falguni Gandhi.
16 Florentino Mitchell.

17 MR. MITCHELL: Good morning. I want
18 to thank the panel and the SBA for allowing
19 me to testify this morning. I have got a
20 very brief statement in a general sense not
21 dealing specifically with any of the items on
22 your list. Can I proceed? Thank you.

23 I would like to thank the American
24 Small Business Association and its president

1 Lloyd Chapman for keeping me and other small
2 business owners apprised of the issues most
3 effecting our likelihood and, in fact, our
4 very existence.

5 The proposed changes in the size
6 standards that define what is a small
7 business is one more hit by the
8 administration on middle class, small
9 business and the quality of life for the
10 majority of Americans.

11 We all know the negative effects
12 caused throughout our nation by such entities
13 as Wal-Mart where the profits created by
14 small businesses sustain many families and
15 local economies are now channeled to a few
16 members of one family.

17 The strength of our democracy has
18 been in no small measure sustained by the
19 quality of life and the size of our middle
20 class. The distribution of wealth is
21 directly connected to this reality. The
22 proposed changes will allow bigger companies
23 to garner more of the contracts, furthering
24 the erosion of the small business.

1 MODERATOR EL-GABRI: Excuse me, can
2 we focus on the topics in the notice?

3 MR. MITCHELL: I asked to proceed.

4 MODERATOR EL-GABRI: It depends how
5 digressed you are.

6 MR. MITCHELL: It is a very small
7 statement.

8 MODERATOR EL-GABRI: We will accept
9 the written testimony. But if you could
10 focus the oral testimony on what the public
11 notice called for, I would appreciate it.

12 MR. MITCHELL: It is a cause and
13 effect of your proposed policies.

14 MODERATOR EL-GABRI: If you could
15 tie it to the proposed policies specifically,
16 I would appreciate it.

17 MR. MITCHELL: This is tied to the
18 proposed policies.

19 MODERATOR EL-GABRI: I haven't seen
20 a tie yet.

21 MR. MITCHELL: Well, if you listen,
22 you might.

23 MODERATOR EL-GABRI: I have been
24 listening.

1 MR. MITCHELL: Continue to do so,
2 please.

3 MODERATOR EL-GABRI: Pardon me?

4 MR. MITCHELL: Continue to do so.

5 MODERATOR EL-GABRI: I will do so.
6 But if you do not focus on what the notice
7 specified, I will ask you to sit down and
8 present your written testimony. If you would
9 like to focus on what was proposed in the
10 notice, you can proceed. Otherwise please do
11 not continue.

12 MR. MITCHELL: Well, as I said
13 before, if you will listen, this deals with
14 the cause and effect of your proposed
15 standards, what it means to the small
16 business community and what it means to the
17 middle class in this country as a whole.

18 MODERATOR EL-GABRI: Well, as the
19 public notice has indicated, this is not the
20 forum to address that. The forum
21 specifically addressed a specific size --
22 11 points as to the size standards
23 particularly.

24 If you have questions regarding SBA

1 generally, the economy generally, this is not
2 the forum to do it.

3 MR. MITCHELL: Well, the SBA was
4 created many years ago to represent the
5 interests of the small business community.
6 And it would seem to me that the things that
7 you are proposing to do now are completely
8 and adversely against those principles of
9 creation. You are now proposing things that
10 are probably going to eliminate the small
11 business community from participating in
12 federal contracts. I believe that that is
13 the effect that your proposed changes will
14 have.

15 MODERATOR EL-GABRI: Okay. Thank
16 you.

17 Next speaker is Mr. Ralph Moore.

18 MR. MOORE: Good morning. Thank you
19 for this opportunity. Thank you for this
20 opportunity to testify on the critical issue
21 of size standards. My name is Ralph G.
22 Moore, president of Ralph G. Moore &
23 Associates, RGMA. RGMA is a 26-year-old
24 management consulting firm with extensive

1 links to SBA over the years.

2 Our firm participated in the 8-A
3 program from 1979 to 1988. But what is more
4 significant to the topic at hand, RGMA is one
5 of the foremost providers of technical
6 assistance to minority businesses in the
7 nation. Our staff has delivered one-on-one
8 technical assistance to 1,000 minority and
9 women small businesses and have trained
10 thousands more in various workshops since
11 1979.

12 We were subcontractors in the old
13 406 technical assistance program in the late
14 '70s and '80s. We have enjoyed over 37 GSBA
15 service provider contracts for Region 5
16 between '85 and '95.

17 We were also awarded a contract to
18 provide SBA third-parties SBD certification
19 in 2001, our experience with minority and
20 women small business outside of SBA. We
21 worked with the Illinois Department of
22 Transportation for 17 years.

23 Long story short, we have worked
24 with thousands of minority businesses. But

1 what has been interesting is our most recent
2 contract, we were working with Wachovia Bank.
3 Wachovia is working with -- they have hired
4 us to work with 15 minority businesses with
5 revenues of 20 to \$100 million in capacity
6 building because they have identified,
7 rightly so, that even at \$100 million
8 minority small businesses are handicapped
9 when competing in this global marketplace.

10 So I share my credentials not so
11 much to impress you, but to let you know
12 there are very few people in the country that
13 have looked in the eyes and souls of minority
14 small businesses as I have.

15 And again I want to congratulate you
16 for the past success of the 35 years, the
17 effort of -- as a matter of fact it started
18 -- I am going paraphrase Richard Nixon in the
19 aftermath of the riots of the 1960s, "we must
20 provide blacks a piece of the economic pie."
21 Now blacks obviously become minorities.

22 I had the pleasure of meeting
23 Maurice Thanz (phonetic), who was the
24 architect of that whole program. So what has

1 happened in those 35 years is exactly what
2 SBA wanted to happen. You have grown size
3 and capacity of minority business. You
4 planted the seed and now we are reaping the
5 harvest.

6 So as we reap the harvest, again
7 those seeds were the 8-A program, the MENZA
8 (sic) program, which led to the venture
9 capital NAICS organization, the loan program,
10 technical assistance programs, you have
11 created thousands of sizable minority
12 businesses that are now bumping up on the
13 size standards.

14 So, in fact, without the policies of
15 the programs of the U.S. Small Business
16 Administration, corporations in the private
17 sector would not have the pool of minority
18 businesses that they are now using to seed
19 their supplier diversity programs. And these
20 are the members of the NMSDC and WBDC (sic)
21 on the women's side.

22 So what has happened is the
23 expansion of the size standards will enable
24 SBA to continue to be the lead catalyst on

1 small business -- small and minority business
2 development.

3 Having embarked on the most
4 aggressive or progressive capacity building
5 programs in the '70s through now, this will
6 allow -- the expansion will allow you to
7 finish the job.

8 So just as we are looking at the
9 global economy that everyone is dealing with,
10 the expansion on size standards will expand
11 businesses just for the nation as reaping the
12 benefits of success.

13 Federal agencies are discovering
14 that minority small businesses can compete
15 with larger companies on these bundle
16 contracts. Corporate America is gaining MBEs
17 that can serve as global contracts. State
18 and local governments are gaining vendors,
19 minority and small vendors that are
20 competitive when bringing -- and bringing
21 federal dollars back to the communities.
22 Communities are gaining growing businesses
23 that are providing job and spurring economic
24 growth as supporting other businesses in

1 their area.

2 So what we have as size standards is
3 an opportunity to get it right, to move the
4 bar to keep these businesses growing.

5 So I strongly recommend that we
6 adopt the recommendations of the NMSDC. And
7 I think you have already been given some of
8 those testimonies in some other places. I am
9 not going to take us through that.

10 But looking at the tiered system of
11 the size standards, 5/10/5 (sic) formula that
12 had been presented previously, also looking
13 at the NMSDC growth initiative as a model for
14 safeguards for venture capital investments.
15 We should be concerned about venture capital,
16 but at the same time we need those dollars to
17 spur further investment in this area.

18 So again I thank you for this
19 opportunity. We are at a cross-roads of
20 continuing to support emerging businesses
21 with the expansion of size standards. Thank
22 you.

23 MODERATOR EL-GABRI: Thank you,
24 Mr. Moore. Any questions by the members of

1 the panel?

2 Next speaker is Mr. Robert
3 Blackwell.

4 MR. BLACKWELL: Good morning.
5 Mr. Chairman, thank you for the opportunity
6 to appear before this distinguished panel.
7 My name is Bob Blackwell and I own Blackwell
8 Consulting Services. It is a 13-year-old
9 information technology firm that was founded
10 in October of 1992.

11 I am here today to discuss the size
12 standard issue and to recommend that the SBA
13 adopt the recommendations on size standards
14 being put forth by the minority business
15 enterprise legal defense and education fund.

16 To justify my position, I want to
17 focus your attention on two areas that impact
18 the information systems business. They are
19 outsourcing and strategic sourcing.

20 Outsourcing, the information systems
21 business has become an enormously competitive
22 global business in which countries such as
23 India are combining highly skilled work
24 forces with unbelievably low wages so

1 effectively there is a virtual flood of
2 business moving from the United States to
3 off-shore locations around the world. One
4 can hardly find a large American firm that is
5 not sending work off-shore.

6 In addition to this, every one of
7 the large firms that build software or
8 provide IT services is establishing very
9 large facilities in countries such as India.
10 What this means is that large firms because
11 of foreign labor are going to have enormous
12 price advantages in the marketplace and will
13 rapidly run small business -- small firms out
14 of business who cannot afford the investments
15 necessary to set up operations in foreign
16 lands.

17 Strategic sourcing, it is absolutely
18 commonplace in American business in 2005 that
19 companies want fewer vendors to deal with and
20 they want their vendors to have the capacity
21 to deal with their problems.

22 It is also commonplace for
23 businesses to turn the problems of small
24 businesses, minority businesses and

1 women-owned businesses over to a prime vendor
2 of their choosing and then hold the vendor
3 responsible for managing these issues. This
4 approach may be great for the company and
5 great for the prime vendors, but it reeks
6 havoc on the small businesses that are
7 effected.

8 The obvious answer to dealing with
9 these two issues is to redefine small
10 business upward and not downward. Small
11 businesses have to face the issue of scale
12 and size. And the SBA needs to help them.

13 My business had nearly 300 people
14 and 35 million revenue last year and is no
15 longer considered small by the SBA. But we
16 are constantly faced with doubtful customers
17 who question the ability of a tiny firm like
18 ours to help them with any of their major
19 problems.

20 I believe that this perspective
21 comes from these companies doing business
22 with the big guys in our business. And the
23 perception of our size becomes a relative
24 issue. This is why I like the approach of

1 the minority business enterprise.

2 Their approach suggests that you
3 look at the industry and examine the size of
4 the big firms and then you set size standards
5 as a percentage of the average size of the
6 big firms.

7 To avoid disadvantaging the really
8 small firms that are just getting started,
9 the minority business enterprise has created
10 a formula tiering for protecting these very
11 small firms that -- and that seems fair.

12 In closing let me say that the SBA
13 must recognize the tremendous concentration
14 that is going on in the information systems
15 industry and not close your eyes to the
16 obvious need for small firms to get larger
17 without being punished or thrown out of the
18 program. Thank you so much.

19 MODERATOR EL-GABRI: Thank you. Any
20 questions?

21 Next speaker is Ms. Beth Doria.

22 MS. DORIA: Good morning. My name
23 is Beth Doria and I serve as executive
24 director of the Federation of Women

1 Contractors, a 100-plus member organization
2 consisting of women who own and operate
3 construction or construction-related
4 companies.

5 It is on their behalf that I am
6 pleased to have this opportunity to present
7 testimony to you today.

8 As I am sure many of you are keenly
9 aware, women and minority-owned businesses
10 alike have suffered tremendous challenges
11 throughout the years in trying to establish
12 credibility, access to capital and bidding
13 opportunity. We continue to struggle day in
14 and day out with the culture of business bias
15 that inhibits our ability to fairly compete
16 in the marketplace.

17 A clear example of this bias is the
18 fact that revenues of women-owned and run
19 businesses are only four percent that of
20 male-owned business. And we still earn
21 significantly less than that of our male
22 counterparts.

23 And despite the seemingly
24 insurmountable hurdles, these two small

1 business sectors continue to outpace all
2 businesses and growth, exhibiting their sure
3 willingness to survive and succeed as part of
4 the greater small business community.

5 Small businesses, most particularly
6 women and minority-owned businesses, have
7 suffered even greater challenges to federal
8 procurement through the government's
9 contracts on building and strategic sourcing.

10 It is based on these figures and the
11 obstacles stated above that the women and
12 minority-owned small business community would
13 object to any effort to tripling the current
14 definition of small business for most
15 industries from 500 to 1,500 under a tiered
16 system.

17 In that same vein we would object to
18 any effort to grandfather those larger
19 companies who misrepresented themselves as
20 small businesses into a revamped small
21 business program, doing so would surely
22 eliminate any chance we may have of fair
23 competition.

24 With the small business community

1 now comprising 90 percent of all businesses
2 in the U.S., it is without question the
3 backbone of our economy. As the federal
4 government's administrator of policies to
5 strengthen and support the small business
6 community, it is incumbent upon you to
7 consider the tremendous adverse effect these
8 proposals might have. Thank you.

9 MODERATOR EL-GABRI: Thank you,
10 Ms. Doria. Any questions by the members of
11 the panel?

12 We will take a ten-minute break and
13 we will be back in ten minutes. Thank you.

14 (Short recess taken.)

15 MODERATOR EL-GABRI: Let us proceed.
16 The next speaker is Marina Houghton.
17 Ms. Houghton is not here. The next speaker
18 is Mr. Don Crouch. Mr. Paul Scott.

19 MR. SCOTT: Good morning and thank
20 you for inviting me to speak today. My name
21 is Paul Scott. I am the president and owner
22 of a small computer technology company -- can
23 you hear me okay -- a company called
24 CA Business Partners. We are a 21-year-old

1 company. And we provide computer technology
2 solutions to medium and large corporations.

3 And I wanted to speak to you guys
4 today for a couple of reasons. First off, my
5 company really doesn't pursue much government
6 business at all. And I have purposely shied
7 away from it because I find the bidding
8 process to be essentially unfair in its core.

9 A system that would allow the likes
10 of an IBM or an SBC Corporation that competes
11 with my company for business just really
12 doesn't work for me. And I would love to be
13 in a position to -- I would love to be in a
14 position to compete with companies that are
15 similar in size to my own.

16 I also feel that a system that has
17 what I consider to be inherent inequities, as
18 I describe, cost the government more than
19 they actually should. I think it results in
20 large companies perhaps doing things that
21 would be considered deceitful. And it gets
22 smaller companies going after businesses that
23 maybe they really shouldn't go after that is
24 really not in their best interests resulting

1 that they could often fail when they win
2 contracts.

3 MODERATOR EL-GABRI: I ask you to
4 stay on the 11 points in the public notice
5 referred to, please.

6 MR. SCOTT: Yes. That is where I am
7 now. I believe that a system that would tier
8 contracting in a way that would pit companies
9 of similar sizes together would make a lot
10 more sense. And I also think that the fact
11 that -- you know, small businesses perform
12 super human tasks every day. And there are a
13 range of sizes. I wouldn't even speculate on
14 what the right size would be for the tiering.
15 But it is clear to me that the companies that
16 are, you know, large by my standards but
17 still could fall within the purview of a
18 small business can use all the help they can
19 get. And that is essentially my comments.
20 Thank you.

21 MODERATOR EL-GABRI: Thank you. Any
22 questions by the members of the panel?

23 Next speaker is Ms. Bernice
24 McClendon.

1 MS. McCLENDON: My name is Bernice
2 McClendon. I am founder and executive
3 director of Educational Training and
4 Development, Inc. It is a small business
5 development and technology center located in
6 South Holland.

7 I represent hundreds of small
8 businesses in that I have been fortunate
9 enough to help them to develop those
10 businesses from inception, from their name,
11 to their purpose and to funding them and
12 establishing the paperwork.

13 So I am not speaking for educational
14 training and development. But I speak for
15 small businesses that come my way that causes
16 me to feel sad, very sad because I can't help
17 them to get to the next level because I am
18 not the one that is making the policies on
19 size, on receipts, on the number of
20 employees. And so we find that as small
21 businesses in our area and that is not --
22 there is no limit, there is no industry here.
23 It is everybody that comes, whether it is
24 manufacturing, whether it is service, whether

1 it is exporting, importing, it all comes
2 through my door because these are people who
3 want to start their businesses. And we have
4 been fortunate enough to help them to do it.

5 We have an awful lot of good
6 businesses who are growing. But somehow we
7 find ourselves stymied because of the
8 unfairness and the injustice of the system
9 when it comes to their being able to compete
10 in this marketplace.

11 So I am just appealing today to
12 those of you who are responsible and those of
13 you who have the authority to be fair to see
14 to it that justice is done, that you would be
15 honest and use your integrity to watch the
16 things that are incorrect, to straighten them
17 out so that every taxpayer has the
18 opportunity to live, to grow their
19 businesses, to support their families and to
20 make an honest living because we work on --
21 we now includes me, because we work very
22 hard. But we are limited to where we can go.

23 And sometimes that can cause a
24 person to think is it an orchestrated plan

1 that you are limited to where you go. I
2 don't think that is the plan. But I think
3 because of some of the injustices that have
4 been allowed to fester in the business of
5 bidding with the SBA procurement and all of
6 that -- and we see it, we hear it on radio
7 and T.V. every day.

8 MODERATOR EL-GABRI: Excuse me, we
9 are trying to focus on the specifics, the
10 issues of simplifying the size standards.

11 MS. McCLENDON: Please forgive me.

12 MODERATOR EL-GABRI: Public issues
13 are important, but they are important in a
14 different forum. It is important to stick to
15 the forum that is in front of us.

16 MS. McCLENDON: It is not my intent
17 to venture off into that.

18 MODERATOR EL-GABRI: So please
19 don't.

20 MS. McCLENDON: So the size -- I
21 think that when I look at the people that I
22 deal with, the number of employees could be
23 from one to a hundred and that to me is large
24 when it comes to small. There are many of

1 them who have only five, only three, only
2 ten. But to say a hundred is a bit far
3 fetched for the businesses that I am dealing
4 with. And there are hundreds of them.

5 I think that the things that you
6 have mentioned like tiering, receipts, size
7 and employees are all good if you are going
8 across the board and consider that you have
9 the -- you have the opportunity to say what
10 is large. I don't. But I want to do -- I do
11 want to say that small is small and so from
12 zero to 100 is a good size for the people I
13 am dealing with. And then financing -- I
14 mean -- and for employees, many of them are
15 like maybe -- maybe even two or three.

16 So my appeal today is that we would
17 just be fair in receiving the majority --
18 particularly the minority business that comes
19 through, that we would be fair and we see to
20 it that the laws that are set would be
21 carried out so that everybody will have an
22 opportunity to succeed. Thank you.

23 MODERATOR EL-GABRI: Thank you. Any
24 questions by the members?

1 Next speaker is Dr. Gerald Jackson.
2 Ms. Tracye Smith.

3 MS. SMITH: Good morning. Thank you
4 for the opportunity to address this committee
5 regarding the proposed change in size
6 standards which will impact our nation's
7 small businesses. I applaud the committee's
8 attempts to gather more input to further
9 understand that these important decisions
10 will affect small business and consequently
11 the growth of our overall economy.

12 Rules impacting the small business
13 owner weigh even more heavily on the minority
14 business owner as they are the fastest
15 growing segment of small business in the
16 United States.

17 Despite their growth, however,
18 minority firms still only represent 3.3
19 percent of the total commercial revenues in
20 the U.S. As minorities continue to become a
21 greater percentage of the American
22 population, it is projected to be over
23 50 percent by 2040, the growth and
24 sustainability of small minority businesses

1 continues to become more critical to our
2 country's economic stability, job creation
3 and global competitiveness.

4 This is why the Chicago Minority
5 Business Development Council supports and
6 endorses the size standard formula that is
7 proposed by MBELDEF and supported and
8 endorsed by the NMSDC, National Minority
9 Supplier Development Council.

10 Its tiered approach more fairly
11 addresses the issue of size standards for
12 small businesses and offers a fairly
13 simplified solution.

14 The proposed SBA size standards will
15 further negatively impact small business'
16 ability to compete with large and medium-size
17 competitors in their industry. The current
18 limitations on size and network, in addition
19 to the new proposed changes, further inhibit
20 the small business' ability to grow. The
21 business cannot grow large enough to sustain
22 long-term viability because it is not able to
23 get to scale within the current program to
24 allow it to be competitive in terms of price

1 or scope with larger companies in its
2 industries.

3 This fact leaves it vulnerable to
4 large competitors that compete in both the
5 government and private sector for contracts
6 in that they can price them out of market.

7 The current network limitation also
8 inhibits their ability to leverage equity in
9 their firms to obtain debt capital for
10 growth. Both of these issues inherently
11 contradict the SBA's congressional mandate to
12 aid and assist and protect the interests of
13 small businesses.

14 The proposed changes to the size
15 standards also further exacerbate the problem
16 of large federal contractors who must
17 subcontract to small businesses. The
18 businesses -- the businesses are often too
19 small to compete or they don't have the
20 necessary skill to serve as a prime or even a
21 second-tier supplier to these large federal
22 contractors.

23 With corporate America's ongoing
24 firm focus on strategic sourcing and

1 supplier-based reduction, the current and
2 proposed size standards render the use of
3 small business in this manner not feasible.
4 And this opportunity to grow for small
5 business is often lost.

6 It should be noted that corporate
7 supplier diversity programs do not have size
8 standards at all, enabling the corporation to
9 diversify its supply chain and develop small
10 business and remain globally competitive.

11 The proposed change in size
12 standards based on employee size and revenue
13 appear too generic for many of the industries
14 they will impact. They will also serve to
15 further hamstring the growth of small
16 business.

17 Again this is why the Chicago
18 Minority Business Development Council
19 supports and endorses the size standard
20 formula proposed by MBELDEF and endorsed by
21 the NMSDC. Thank you.

22 MODERATOR EL-GABRI: Thank you. Any
23 questions?

24 MS. McCULLOUGH: Just one thing. I

1 want to thank you for your testimony. I want
2 to correct one bit of information, there is a
3 current size standard, but there is no
4 proposed size standard. That one was
5 withdrawn --

6 MS. SMITH: Okay.

7 MS. McCULLOUGH: -- last year. So
8 any proposals that we entertain will come
9 from the comments and testimonies that the
10 individuals like yourself give. But thank
11 you.

12 MS. SMITH: Thank you. Should I
13 leave this testimony?

14 MODERATOR EL-GABRI: Leave it at the
15 desk as you come in.

16 As Ms. McCullough said, there is no
17 proposed size standards. This is the purpose
18 of this public hearing, is to gather input
19 about small business partners. These
20 comments will be taken into account in making
21 proposals that will then be published in the
22 Federal Register.

23 Next speaker is Ms. Cindy Neal.

24 MS. NEAL: Thank you for your time

1 and allowing me the opportunity to speak to
2 you today as a small business owner. I am
3 here to speak specifically to the
4 relationship between franchisors and
5 franchisees in the temporary staffing
6 industry.

7 My name is Cindy Neal. And I own an
8 Express Personnel Services office located in
9 Peoria, Illinois. I always knew I wanted to
10 be a business owner and in business for
11 myself.

12 I looked at the staffing industry
13 and thought about starting an independent
14 office. And I also looked at franchising. I
15 decided that purchasing an Express Personnel
16 Services franchise offered me the best
17 back-office support systems, which include
18 payroll and billing services.

19 I opened my doors in October 1989 as
20 a sole proprietorship using the Express brand
21 name. I incorporated my business in 1993.
22 My business is an independent corporation. I
23 have my own federal identification tax
24 number, state tax identification number,

1 workers' comp accounts, federal and state
2 unemployment accounts. My business is
3 separate and distinct from the franchisor
4 Express Services, Inc.

5 The franchisor has no control or
6 responsibility for my day-to-day business
7 operations. I am totally responsible for
8 advertising, recruiting, hiring, assigning,
9 training, disciplining and terminating
10 temporary workers. I assign these workers to
11 my client companies.

12 I am totally responsible for the
13 costs associated with the functions I have
14 just listed. I also cover costs for
15 background checks, drug screens, job
16 training, advertising, et cetera. I pay
17 federal and state income taxes for my
18 internal staff as well as the employer's
19 share of Social Security and Medicare. Other
20 expenses are federal and state unemployment
21 insurance and workers' compensation
22 insurance.

23 I maintain a company handbook
24 outlining staff duties and company policies.

1 I provide fringe benefits for my internal
2 staff, including vacation and holiday pay.

3 As a small business owner with a
4 small staff, I find it extremely frustrating
5 to find and offer good, quality and
6 affordable health insurance. I hire my own
7 attorneys and accountants to help me with my
8 business operations and business decisions.

9 To illustrate my independent
10 business status, a quick story. I was
11 driving home on September 6th, '01, was hit
12 by an uninsured, unlicensed driver. The
13 injuries from that accident were a broken
14 back, lacerated liver, shattered wrists and
15 assorted bump and bruises. Fortunately, I
16 was released on September 11th, 2001.

17 We all know of the terrible
18 tragedies that occurred on that date and the
19 corresponding economic downturn.

20 As a result of that accident and my
21 inability to react physically to what was
22 happening in the marketplace, I suffered an
23 economic loss of over \$85,000 that year,
24 2001. The good news I recovered physically,

1 but I have been struggling ever since. I am
2 working diligently to recover from that
3 financial loss and that negative business
4 cycle.

5 I believe with the respected roles
6 of my franchisor and my business are
7 different from many other franchise
8 businesses, especially those that provide
9 goods and services to walk-in customers such
10 as fast-food restaurants or office supply
11 stores.

12 Under our franchise agreement, the
13 franchisor provides back-office support,
14 software to invoice for the services that I
15 had sold to clients. As an independent
16 franchise owner, I have the sole
17 responsibility for the credit and collection
18 process. Should a client fail to pay an
19 invoice, my business bears the entire risk of
20 financial loss.

21 Under our franchise agreement, the
22 franchisor retains responsibility for
23 processing my payroll in order to ensure
24 proper withholding and payment. Although the

1 franchisor processes the payroll checks for
2 my business, I am actually responsible for
3 issuing those checks to temporary workers.

4 The SBA should consider the
5 following factors when determining small
6 business status as it relates to that
7 relationship between the franchisor and
8 franchisees in the temporary staffing
9 industry. I bear the entire risks of
10 financial loss from business operations. I
11 retain the majority of the profits. I
12 maintain day-to-day control of business
13 operations. I secure and provide financing
14 for my company without any recourse for
15 indebtedness or repayment to the franchisor.

16 There is no common ownership or
17 management between the franchise owner, me,
18 and the franchisor. Again thank you for the
19 opportunity to testify today.

20 MODERATOR EL-GABRI: Thank you. Any
21 questions by the panel?

22 Yvonne McGinnis.

23 MS. MCGINNIS: Good morning. My
24 name is Yvonne McGinnis, president and owner

1 of We're Cleaning, Incorporation, a
2 janitorial service company. And I would like
3 to address class size in this industry.

4 In case you haven't noticed, I am a
5 black female, allegedly one of the target
6 audiences this organization was found to
7 assist.

8 In 1995 -- I started We're Cleaning
9 in 1995. And I am fortunate and lucky to
10 have kept my business alive for almost
11 20 years. I have participated in the 8-A
12 set-aside program for eight years. I have
13 received no assistance from SBA. In
14 realizing the few contracts that I have, the
15 revenue from these small awards represents
16 17 percent of my revenue annually.

17 Big business have taken all the
18 business from small business. SBA does not
19 reasonably advocate the small business
20 anymore.

21 Currently, there are two certified
22 black female janitorial companies in the
23 state of Illinois. And both of us are
24 struggling to stay alive. Big business --

1 MODERATOR EL-GABRI: Excuse me,
2 could you please focus on the issue of the
3 regulation of the size standards?

4 MS. MCGINNIS: Yes. Due to big
5 business size standards, we are not able to
6 acquire any contracts. They always underbid
7 us or we just can't seem to negotiate any --
8 I mean, sometimes there are situations where
9 we are not even considered. Big businesses
10 get all the business.

11 MODERATOR EL-GABRI: What we want to
12 hear is what ideas you might have on the
13 simplification of the size standards.

14 MS. MCGINNIS: Okay. I do have one
15 situation. In the size standards, 500
16 employees is not small business. And if you
17 want to increase it or change in any
18 direction other than downward eliminates
19 small business from participating in
20 contracts for Illinois.

21 You have also allowed big business
22 -- now GSA has a statement where you can only
23 -- an 8-A firm is not an 8-A firm. An 8-A
24 firm has to have done 750,000 square feet of

1 space times three to be able to bid on their
2 solicitations. This is discriminating. And
3 big business -- that is setting the stage for
4 big business, 750,000 square feet. I don't
5 need to be -- if I have three of those, I am
6 there at the size limit.

7 But big business size is very
8 important here because 500 employees is not
9 small business anymore. They have taken all
10 the business from the true small business.
11 And to change it would be absolutely
12 devastating.

13 In 1995 I started my business. And
14 there were five other black females who
15 started business in the state of Illinois.
16 They are all out of business. I am the only
17 one left standing. And it is all because of
18 the relationship with SBA and big business.
19 And to change it, to change the class
20 standards, what effect would it have on us --
21 what are the pros and cons to it? Will it
22 help small businesses or will it hurt us by
23 increasing the class sizes? I think it will
24 hurt us more than it has already.

1 You haven't perfected the situation
2 with small business yet. Now you are going
3 to go and change it and decrease my ability
4 to earn contracts.

5 I will never ever -- I have two more
6 years left on my certification. I will never
7 be able to come up with -- to be a big
8 business. You are not advocating, you are
9 not helping me to evolve into a big business.
10 Thank you.

11 MODERATOR EL-GABRI: Thank you.
12 Questions by the panel?

13 Next speaker Ms. Elizabeth Tran,
14 Elizabeth Tran.

15 That concludes the people who
16 registered in the morning. Two individuals
17 who registered in the afternoon and want to
18 testify in the morning, because we have time,
19 we will do that. Mr. Ayton Taylor.

20 MR. TAYLOR: Morning, ladies and
21 gentlemen. Ayton Taylor, I am a CPA and I am
22 here to talk about business size.

23 In my opinion a service organization
24 that is over 100 people working for it is

1 certainly a large business. For us we
2 believe that size has its place. But in the
3 service organization, you have to consider
4 what you do when you start a business.

5 For example, when we start in our
6 area of work, we have to think about the
7 people in our population that are looking for
8 employment who would not be able to go to,
9 say, the large big five corporations to get a
10 job. They would not be employed there. So
11 we are the ones who employ students coming
12 out of school and bring them into the
13 accounting profession because we are small
14 and we can do it.

15 But we also need the jobs to be able
16 to give these people a chance to work. So we
17 are saying that the SBA should find a way to
18 keep a certain amount of the businesses small
19 so that we can compete. And when we send in
20 for a contract, we can be almost certain that
21 we are competing within a certain arena.
22 There are different arenas -- and we respect
23 the fact that there should be large
24 corporations. We respect the fact that there

1 should be small corporation, medium size and
2 all that. But we also want to emphasize that
3 there should be a size limit in terms of
4 service. And looking at any organization
5 that is over 100 in service is begging the
6 question in terms of saying that that
7 organization is small.

8 One thing we know from our
9 observation is that the larger sizes when
10 they do get the contract, they really
11 outsource those contracts. So, therefore,
12 they are looking at the bottom line and not
13 as a size thing because they are outsourcing
14 things abroad, so, therefore, there are small
15 people abroad doing the work which should
16 have been done within the United States and,
17 therefore, give the employment limit or the
18 number of people working in our type of
19 profession a better chance to function.

20 I know that I take students
21 graduating from, say, Chicago State
22 University who wanted to work with the big
23 five and had no chances of working with them,
24 but they were able to come to my organization

1 and to learn accounting. And then many of
2 them after that left and worked for the big
3 five. So we are a training institution. And
4 we cannot train unless we have the work to
5 train people with.

6 So, therefore, while I would like to
7 say I want to be a very large corporation,
8 right now, we are saying support the smaller
9 organizations so that they can grow. And
10 then when we grow, we should be weaned and go
11 compete with the big boys. Right now we are
12 dwarfs competing with Goliaths.

13 And I am advocating, Mr. Chairman,
14 that the size for the service organization
15 and in my profession should not be more than
16 100 to be classified as a small organization.
17 Thank you.

18 MODERATOR EL-GABRI: Thank you.

19 MR. MURPHY: Just one question of
20 clarification, when you say 100 employees for
21 service contracts, is it all service
22 contracts throughout the economy or training
23 service contracts or within an industry of
24 professional services?

1 MR. TAYLOR: No. It would be
2 preposterous to set that limit because some
3 small organizations, even in my experience,
4 do need a higher threshold than 100. But in
5 most, I would say, if you do the math, maybe
6 85 percent should really not be more than
7 100. But across the board, I would not say
8 so.

9 MR. MURPHY: Okay. Thank you.

10 MODERATOR EL-GABRI: Mr. Leonard
11 Graham.

12 MR. GRAHAM: Morning. My name is
13 Leonard Graham. I am a partner and president
14 in the firm of Taliaferro & Browne Consulting
15 Engineers. We are located in Kansas City,
16 Missouri. We are a civil and structural
17 engineering firm and we also provide
18 surveying services.

19 I appreciate the opportunity to be
20 here to offer a few comments on the proposed
21 changes in the SBA size standards. I would
22 first like to explain why I am interested in
23 the size standards and why others who work
24 for and own similar firms in my city and

1 throughout the nation are concerned about
2 these standards.

3 These size standards, which are a
4 subject of today's hearings, are used by
5 other federal agencies and state and local
6 governments to determine eligibility for
7 disadvantaged business enterprise programs,
8 minority business enterprise programs and
9 women-owned business enterprise programs.

10 Because of this reliance on the SBA
11 criteria, there is a huge impact on a much
12 larger community of businesses and government
13 agencies on all levels. The single largest
14 of these agencies is the U.S. Department of
15 Transportation where a new \$295 billion
16 highway bill was recently considered in
17 Congress. The adjudication of the small
18 business size standards will, obviously, have
19 a major impact on how small and
20 minority-owned businesses participate in
21 major construction projects that will result
22 from this highway bill and from other major
23 construction projects nationwide.

24 I have reviewed the Federal Register

1 publications of December 3rd, 2004,
2 March 19th, 2004, and May 12th, 2005.

3 Although my comments concern my particular
4 industry segment, many of these comments are
5 applicable to other industry segments that
6 are covered by the anticipated rulemaking.

7 My first point concerns the mere
8 need to raise size standards. I understand
9 that comments have been made in hearings in
10 other cities that have suggested an actual
11 reduction in size standards for firms in
12 NAICS code 541330, which is engineering
13 services. The current size limitation being
14 \$4 million in annual receipts.

15 Contrary to this view, I believe
16 that the size standards should at a minimum
17 be raised to adjust for inflation since the
18 last changes were made in 1997. Such a
19 change is long overdue and clearly warranted,
20 given the reduction in the value of the
21 dollar over the last eight and a half years.

22 If size standards were reduced, as
23 some have suggested, the net result would be
24 elimination of a large number of firms by

1 pushing them in a dead zone or a limbo zone
2 where are firms are not considered small and,
3 hence, they must compete against the
4 corporate giants before the smaller firms
5 have developed enough competitive strength to
6 be able to do so.

7 It seems wise in order to keep
8 things in perspective to make note of the
9 fact that the average industry revenue of the
10 ten largest engineering firms in this country
11 is approximately \$1.6 billion, according to
12 the April 2005 Engineering News Record poll,
13 compare this against the current \$4 million
14 size standard or the \$7 million size standard
15 that was previously proposed.

16 Clearly, the standard needs to be
17 raised.

18 The SBA asks are the size standards
19 complex, confusing or difficult to use? In
20 my industry group, engineering services, I
21 believe that the receipts-based size
22 standards seem to have worked well and has
23 worked well with little problem. The
24 proposed change to change to a number -- to

1 an employee-based system also with the
2 receipts cap would actually increase the
3 complexity of the size classification.

4 Should all business standards be
5 based on the number of employees? I can't
6 speak to all segments of the industry, but I
7 can speak to mine. If we go to a standard of
8 numbers, I think we just need to make sure
9 that we calculate those numbers correctly.
10 And I believe that that should be done on the
11 basis of an equivalent full-time employee for
12 a year by dividing 2,008 hours per year.

13 In terms of grandfathering, I
14 understand that there may be some firms that
15 would be knocked out of consideration. And I
16 believe that for those firms that may be
17 knocked out, that they should be given one
18 year and a grandfathering clause to allow
19 them to adjust their business strategies to
20 be able to continue their business and to
21 succeed without introduction as a small
22 business. Thank you very much.

23 MODERATOR EL-GABRI: Thank you.

24 MR. GRAHAM: I would be happy to

1 answer any questions if anybody has any.

2 MODERATOR EL-GABRI: I want to
3 emphasize again that there are no proposed
4 changes on the table. The purpose of the
5 public hearing is to gather changes. The
6 proposed changes might be made at that time.
7 They will be published in the Federal
8 Register. But on the table there are no
9 proposed changes to the size standards. And
10 that is the purpose of the public hearing.

11 Any questions by members of the
12 panel?

13 MS. McCULLOUGH: Right, there is no
14 grandfathering clause.

15 MR. GRAHAM: I understand that.
16 Thank you.

17 MODERATOR EL-GABRI: Has anyone
18 arrived late that was registered to testify
19 before, will you please come and identify
20 yourself and we will proceed?

21 MS. RATNER: I am Hedy Ratner.
22 Thank you. I appreciate the invitation to
23 present testimony today at this public
24 hearing on SBA small business size standards

1 and the impact on small business development.

2 My remarks are intended to
3 strengthen the SBA, not to weaken it. I
4 believe that what I propose is a constructive
5 comment about an institution that is and
6 should be a lifeline to small business.

7 I am Hedy Ratner. And I am the
8 co-founder and co-president of the Women's
9 Business Development Center in Chicago. The
10 WBDC since 1986 has provided business
11 assistance to women and men in the
12 metropolitan area of Chicago and collar
13 counties of northern Illinois.

14 We offer programs and services in
15 English and Spanish. We assist women
16 starting and expanding their businesses. We
17 were founded to support entrepreneurial
18 development among women as a way to achieve
19 self sufficiency, create wealth and expand
20 participation in community economic
21 development.

22 Our mission is to provide these
23 services, programs and advocacies and support
24 and accelerate women's business ownership and

1 strength in the impact of women on the
2 economy.

3 Since 1986, we have served over
4 50,000 women and men thanks in part to the
5 support of the Small Business Administration.

6 We at the Women's Business
7 Development Center and the women we represent
8 support the effort to improve and simplify
9 the small business size regulations. But we
10 have some concerns.

11 Minority and women-owned small
12 businesses are over half the businesses in
13 the U.S. today. And we are concerned that
14 the percentage of federal contracts to small
15 business has decreased to less than
16 20 percent when small businesses are over
17 90 percent of the businesses in the U.S.

18 MODERATOR EL-GABRI: Excuse me,
19 could you please focus on the issues before
20 us, which is the --

21 MS. RATNER: I am.

22 MODERATOR EL-GABRI: Any ideas you
23 have in the simplification.

24 MS. RATNER: We are also concerned

1 about the accuracy of the stated percentage
2 of contracts awarded to small business. We
3 are appalled to learn that the SBA's office
4 of inspector general in several
5 investigations found that larger firms have
6 fraudulently received --

7 MODERATOR EL-GABRI: Again I ask you
8 -- let me emphasize something.

9 MS. RATNER: I shall.

10 MODERATOR EL-GABRI: No. Wait a
11 second. The points you are raising are
12 important but in a different forum. The only
13 forum this is focused on is the question of
14 simplification of the small business size
15 standards, period.

16 MS. RATNER: Yes.

17 MODERATOR EL-GABRI: What you have
18 covered so far does not. I ask you to focus
19 on that issue. Okay.

20 MS. RATNER: Thank you. Many large
21 businesses are being counted on the defense
22 and other federal contracts as small
23 businesses. And the SBA is counting them as
24 part of its 23 percent small business goals.

1 That is disempowering and just plain wrong.

2 We are opposed to grandfathering
3 large corporations into the small business
4 program, allowing them to remain in the small
5 business database.

6 Grandfathering diverts billions of
7 dollars in small businesses to large
8 corporate giants. Many of these firms
9 intentionally misrepresent themselves to
10 receive the contracts designated for small
11 businesses illegally and immorally. Small
12 companies have suffered losses of federal
13 accounts and subcontracts --

14 MODERATOR EL-GABRI: Could you
15 please --

16 MS. RATNER: This is the issues
17 which you are addressing.

18 MODERATOR EL-GABRI: No, it is not.
19 This is not the issue. The issue is the
20 simplification of the size standards. You
21 are not focusing on that. If you cannot
22 focus on that, then thank you and you can
23 present any written comments up at the desk.

24 But I have to emphasize what has

1 been emphasized in all the public hearings
2 throughout the country, the only issues on
3 the table for these public hearings are the
4 simplifications of the size standards,
5 period. If you have any ideas as to how to
6 simplify the size standards, we would be
7 happy to hear it.

8 MS. RATNER: I believe I would like
9 to address these issues. If you choose not
10 to listen to them, I will present my
11 testimony.

12 MS. McCULLOUGH: You can present it
13 in writing. That is fine.

14 MS. RATNER: May I continue?

15 MODERATOR EL-GABRI: No, you cannot,
16 unless you are willing to focus your comments
17 on --

18 MS. RATNER: I am sorry. I believe
19 that there are other people who have been
20 testifying on these very issues, and I would
21 like to continue.

22 MODERATOR EL-GABRI: No, I don't
23 think so. Thank you very much.

24 MS. RATNER: Who shall I present my

1 testimony to?

2 MODERATOR EL-GABRI: There is a
3 table as soon as you enter, there is a table
4 there, some people --

5 MS. RATNER: I do believe I would
6 like to object. Most of these issues are
7 issues that deal with the regulations. And
8 when I -- I would like to present them.

9 MODERATOR EL-GABRI: Let me
10 emphasize what the issue is. No one is
11 saying the issues you raise are irrelevant,
12 period. They are irrelevant to this public
13 hearing, and that is why we will accept your
14 written comment for the agency to look at in
15 a different focus.

16 But the only focus this hearing
17 addressed are the simplification of the small
18 business size standards, period.

19 MS. RATNER: I believe I am
20 addressing those issues.

21 MODERATOR EL-GABRI: I don't think
22 so. You were provided more than one
23 opportunity to address that issue, and you
24 have not.

1 There is another person who was a
2 walk in. We will accept the testimony of
3 Terri McNally.

4 MS. McNALLY: Hi. My name is Terri
5 McNally. And I am a CEO and founder of
6 Global Capital, Limited. We are
7 headquartered in Grayslake. Our company does
8 equipment leasing and financing. And one of
9 the things we do is we turn our revenues
10 based on our fee income because of the type
11 of assets we finance. One transaction could
12 put us over the size standard.

13 I am pleased to testify today on
14 behalf of Women Impacting Public Policy,
15 which also known as WIPP, a national
16 bipartisan, public policy organization
17 representing more than 505,000 women and
18 business and -- women business owners
19 nationwide.

20 We are particularly concerned with
21 the restructuring of the SBA's federal size
22 standards and the effects they will have on
23 small businesses such as my own. I want to
24 thank you and the others from the SBA for

1 affording me the opportunity to speak to you
2 today about the size standards restructuring.

3 WIPP understands SBA's desire to
4 improve the small business size regulations
5 and shares SBA's desired goal, which is
6 simplification and clarity with regard to
7 what constitutes a small business.

8 After all, no small business wants
9 to find out that they have been competing
10 against large business that just happened to
11 figure out how to gain the federal
12 contracting system. Although simplification
13 of the federal regulations is almost always
14 beneficial to small business, WIPP members
15 have found the current size standard rules to
16 be workable, understandable and fair.

17 WIPP holds its membership and work
18 with the procurement committee to respond to
19 the proposed size standards. Here is what we
20 found. We understand the SBA is considering
21 reducing its size standards to ten levels.
22 WIPP does not agree that the number of size
23 standard levels should be reduced simply for
24 the sake of a reduction. Rather, SBA should

1 establish as many size standard levels as is
2 necessary to reflect the specific
3 characteristics of sectors and subsectors of
4 our economy.

5 Moreover, WIPP members have found
6 the SBA's use of the North American Industry
7 Classification System and its detailed
8 categorization of industry subsectors to be
9 helpful in determining the applicable size
10 standards for their businesses.

11 Secondly, WIPP favors retaining size
12 standards based on annual receipts for the
13 service sector and we request the SBA change
14 the definition of receipts from total or
15 gross income to net income. A number of our
16 WIPP members own companies that provide
17 services or staffing needs at a customer's
18 location.

19 In service industries a company's
20 internal staff may be small, but its payroll
21 fluctuates and at times may be relatively
22 large. This is also true for companies who
23 hire temporary staff for a specific customer
24 assignment. Annual receipts provide a more

1 reasonable and accurate measure for the size
2 of such businesses.

3 WIPP expresses no opinion as to
4 whether all small business should be subject
5 to annual receipts or other revenue-based
6 standard.

7 To the extent SBA continues to
8 include employee-based standards, however, it
9 should measure the number of employees on a
10 full-time equivalent FTD basis, rather than
11 counting the current standards, which counts
12 each individual employee on a full-time
13 part-time, temporary or other basis.

14 One of the keys to success for many
15 women business owners is flexibility of
16 employment. WIPP believes the role which
17 counts every employee as a full-time
18 employee, even though he or she may be
19 working part-time or on a job sharing
20 arrangement, has a negative impact on many
21 employees of small businesses. We do not
22 believe independent contractors should be
23 treated as employees of such small business
24 concern and payments to them by the small

1 business should not be treated any
2 differently than any other business expense
3 in determining net income.

4 Our members have expressed a
5 legitimate concern that any major change in a
6 small business size standard could result in
7 tens of thousands of businesses losing their
8 small business eligibility for federal
9 government programs.

10 As SBA is aware, many small
11 businesses develop business plans and make
12 key business decisions with the goal of
13 obtaining and maintaining their eligibility
14 for SBA standards.

15 Many large businesses utilize small
16 businesses for providers and suppliers in
17 order to meet internal or government imposed
18 small business contracting goals. As the
19 large business community will advise, it is a
20 challenge to locate the small businesses.

21 We favor the creation of a separate
22 set-aside program for micro businesses. And
23 we encourage SBA to continue to promote joint
24 agreements between small business

1 contractors. Thank you.

2 MODERATOR EL-GABRI: Thank you.

3 MS. McNALLY: Any questions? Thank
4 you.

5 MODERATOR EL-GABRI: Thank you. Any
6 other walk-ins that would like to testify at
7 this time?

8 MS. STEPIEN: Thank you for allowing
9 me to testify. My name is Sharoio Stepien.
10 I am the manager of national operations for
11 American Office Products Distributors, which
12 is a group of 60 independently-owned
13 businesses in the United States.

14 AOPD is the holder of a GSA
15 schedule. We have an Army BPA and we compete
16 for commercial business in that sector as
17 well. I would like to talk to you about size
18 standards.

19 Every industry is different, and I
20 think we have seen that here today. And it
21 needs -- I think you need to examine that in
22 regard to setting size standards for
23 businesses.

24 What fits for our industry, the

1 office products industry, might not fit for
2 suppliers of goods or services in other
3 industries. As a -- as small businesses, our
4 dealers compete with Office Depot, Corporate
5 Express, Boise Cascade. These are our
6 competitors. These -- our businesses have
7 between 75 and 125 to 175 employees. To set
8 the standards we would -- we ask you to
9 retain the 500 employee standard. For our
10 industry we cannot effectively compete
11 against these big entities.

12 For instance, Staples does
13 \$9.9 billion in sales. Office Depot does 5.8
14 billion in sales. Boise Cascade, 3 billion
15 in sales. These -- this is who our
16 competition is. For us to remain a small
17 business to be able to compete for commercial
18 sector contracts, for government contracts,
19 we need you to retain the 500 employees.
20 While many of our dealers may never reach the
21 size of 500, anything under that -- when you
22 get down to 100 or fewer employees in our
23 industry, there is no way that you can
24 provide the services and do an adequate job.

1 Why would a company -- a big federal
2 agency, why would the Army buy from a company
3 with 100 employees who could not perform? In
4 our industry we need you to retain this 500
5 and that is what we ask you today. Thank
6 you.

7 MODERATOR EL-GABRI: Thank you. Any
8 questions by the panel? Any other walk-ins
9 that would like to testify at this time? The
10 hearing will be adjourned until 1:30 this
11 afternoon. Thank you.

12 (Short recess taken.)

13 MODERATOR EL-GABRI: Good afternoon.
14 We will proceed with the public hearing.
15 Replacing Judith Roussel on the panel will be
16 Carol Thompson. Ms. Thompson is a
17 Supervisory business development specialist
18 in the Illinois district office. She has
19 over 20 years of contracting experience and
20 has served as the national program manager
21 for two highly visible SBA programs, the
22 mentor protege and the business link
23 programs.

24 First afternoon speaker is

1 Mr. Leonard Graham.

2 MR. GRAHAM: Sir, I already spoke
3 this morning.

4 MODERATOR EL-GABRI: George Lewis.
5 Kaycee Ekufu.

6 MR. EKUFU: Good afternoon. My name
7 is Kaycee Ekufu. I am president and CEO of
8 GoodHealth Medical Products. My company is a
9 small business and certified as SDB by SBA.
10 So that is why I am here to testify today.
11 Thank you for giving me and my small business
12 and small disadvantaged business the
13 opportunity to testify at this hearing
14 regarding the SBA's desire to reform the size
15 standards by which small businesses are
16 formally defined by the federal government.

17 First of all, small businesses are
18 the backbone of America and the entire global
19 economy. In America alone, small businesses
20 provide about 75 percent of the new jobs
21 added to the economy. They present about
22 99.7 percent of all employers. They also
23 employ about 50 percent of the private work
24 force. And about 98 percent of all American

1 businesses have less than 100 employees.

2 It is also important to note that
3 about 89 percent of all American businesses
4 have less than 20 employees, for example,
5 mine. Okay.

6 I am here to testify by asking are
7 the small business current size standards
8 difficult to understand? The answer to that
9 is no. The size standards are not difficult
10 to understand. The larger issue, however, is
11 the SBA's lack of enforcement of the laws
12 requiring punishment of firms for
13 misrepresenting their small business size
14 standards.

15 Should the SBA establish a tiered
16 system of size standards? Now, I am against
17 the tiered-size standards. Adding a tiered
18 system will complicate the size standards
19 structure. Raising the small business size
20 standard to include 1,000 and 1,500 employee
21 companies is wrong and detrimental to the
22 small businesses of America.

23 Since about 89 percent of all U.S.
24 firms have less than 20 employees and the

1 average small business has less than 15
2 employees, a 1,500 employee size standard is
3 100 times larger than the average American
4 small business.

5 Small businesses like mine will
6 continue to be forced to compete against
7 large companies for small business contracts
8 as currently is. For example, I currently
9 have two GSA/FSS contracts that are managed
10 by the VA. But I cannot make good sales
11 under my contracts due to stiff competition
12 with larger companies who compete with my
13 company on set-aside contracts. It will be
14 limited opportunity for small businesses like
15 mine.

16 I am in favor of simplifying the
17 size standards, not adding another obstacle
18 to opportunities. I am not in favor of
19 letting large businesses compete for small
20 business contracts.

21 What are the approaches the SBA
22 could take to grandfather small businesses
23 that may be vastly impacted by any future
24 restructuring? Grandfathering should not be

1 allowed. Currently, significant small
2 business dollars are being awarded to large
3 businesses. Grandfathering will allow large
4 businesses to continue to tie up billions of
5 dollars of small business contracts to the
6 detriment of legitimate small businesses.
7 Billion dollar firms do not need help living
8 in the small business programs.

9 Should the SBA provide an exclusion
10 from affiliation for venture capital
11 companies in size determinations for
12 eligibility for the SBIR program?

13 There should be no exclusions
14 allowed. Allowing large corporations to own
15 51 percent of small business and still
16 compete for small business programs is wrong.
17 I agree with the current regulation that
18 states a business concern that is majority
19 owned by a company must include the size of
20 the company and all its affiliates in
21 determining small business status by
22 excluding the affiliation with the VCC SBIR
23 funds, which are reserved for small business,
24 concerns may be used to subsidize research

1 projects of large corporations.

2 What are the ways to clarify SBA's
3 affiliation regulations?

4 I agree with current affiliation
5 regulations. And I am against allowing
6 exemptions for franchisees.

7 Should the nonmanufacturer size
8 standard be changed? Yes. The
9 nonmanufacturer size standard should be
10 returned to the 100-employee size standard.

11 With the above testimony, I strongly
12 urge the SBA to take appropriate actions to
13 help small businesses get their fair share of
14 government contracts. Thank you.

15 MODERATOR EL-GABRI: Any questions
16 by members of the panel?

17 Next speaker is Stephen Bailey.

18 MR. BAILEY: Good afternoon. Thank
19 you for allowing me to have an opportunity to
20 speak to you concerning the size standards.

21 In my industry, which is the
22 employment industry, I would like to speak to
23 the tier size standard. Being that I am a
24 small business and I own a small employment

1 agency and trying to compete with the larger
2 employment agencies is very hard to get those
3 contracts due to not only the capacity that
4 is viewed during the procurement process, but
5 also the fact that I believe that there
6 should be a tier standard.

7 For example, if we are talking a
8 contract of, say, 100,000, we are looking at
9 0 to 5,000 and then say 5 to 10,000 and 10 to
10 20 and then on up. That would allow me an
11 opportunity to bid on pieces of business with
12 the federal government on those contracts
13 where there will be a need for less employees
14 versus the larger companies being able to
15 just supply people across the country.

16 And I think that the current
17 standard that you have right now actually
18 hinders me from being able to get those kind
19 of contracts. Because we are not usually
20 invited to the bid process until after the
21 fact because the major companies have already
22 secured those type of contracts with those
23 contacts and the relationships that are in
24 there.

1 So it would afford me, if you
2 utilize that, an opportunity to grow my
3 business. Thank you.

4 MODERATOR EL-GABRI: Thank you. Any
5 questions?

6 Jerry Mitchell.

7 MR. MITCHELL: Thank you for letting
8 me voice my opinion on the legislation we are
9 talking about. I want to thank you for the
10 opportunity to testify against the changes we
11 are talking about. My personal experience
12 with the SBR program is extensive. I have
13 gotten grants in California, Massachusetts,
14 Texas and Illinois.

15 I look at the integration that is
16 going on in the world today and all our jobs
17 and small jobs are being outsourced overseas.
18 What is keeping us afloat is the technology
19 we are developing.

20 This program was set up a long time
21 ago so that we can have our departments in
22 Washington take advantage of the technology
23 and we can commercialize some of that stuff.
24 A lot of that has to do with the department

1 of defense. Department of defense is the
2 number one contractor that puts out more SBR
3 grants than anybody else.

4 I hate to think that we are holding
5 up some of that. Someone from a large
6 venture capital firm is saying it is not
7 going to make a lot of money, I am not going
8 to make ten times my money in three years, so
9 I am not going to invest in this technology.

10 One of the things I heard about a
11 long time ago was after 9/11 the Senate
12 committee called everyone into Washington,
13 DC, to talk about -- they called all the SBR
14 managers in.

15 After that meeting, they closed and
16 sealed all the results of that because all
17 the technology was coming out of the small
18 companies and government agencies. That
19 wouldn't happen if the venture capital people
20 had their way.

21 Let's talk -- what we are talking
22 about, we are talking a lot about the
23 information that we are sharing with other
24 people. Well, most of the companies that are

1 starting and creating jobs today have ten
2 people or less in America. There are no set
3 funding like the venture capitalists say.
4 They use SBR grants.

5 If you follow the SBR grants, the
6 people that get the most grants are
7 California, Boston, Texas, North Carolina.
8 If you look at the venture capital
9 investments, what they do is they invest in
10 those people after they get a phase II, so
11 phase III is really working.

12 The problem you have is most of the
13 venture capital people today have no
14 technology backgrounds. They came out of MBA
15 schools with degrees in finance. So in a
16 peer group with somebody where an SBR grant
17 is getting approved by his peer group for a
18 phase II grant, they look at that and say
19 isn't that wonderful, his peer group has
20 already said this is a good product.

21 Let's look at the drug companies and
22 pharmaceutical companies because they talk
23 about biotechnology. How about terrorism and
24 all the other things we are using? That

1 isn't going to be a wonder drug that is going
2 to create a billion dollars for Abbott or
3 Baxter. But it is going to save our country.
4 And that is only because we get SBR grants
5 that fund those things.

6 Nanotechnology is another area we
7 are talking about. If you look at the
8 development of nanotechnology, it is all
9 small companies. It is not large companies.
10 The large companies will buy that technology
11 after they get a phase II grant. Why? If
12 you look -- when I was a young man as a
13 salesperson years ago, I looked at an annual
14 report and I see a line called research and
15 development. They are not doing research and
16 development anymore. They are buying the
17 technology from small companies that have
18 innovation.

19 What happens in a large company is
20 you have to go through all kinds of people to
21 get approval to do the research. When you
22 are in a small company, you do the research
23 because you want to solve the problem.

24 Let's look at some of the things

1 that are going on today. You are not going
2 to find people out there that are going to
3 spend a lot of money on trying to solve some
4 of the third diseases we talk about.

5 Something like sickle cell anemia, you are
6 not going to find the agencies doing this.
7 It is not a big enough market.

8 Venture capitalists look at the size
9 of the market and say how can I get my money
10 out of this market. Venture capitalists have
11 \$84 billion that they haven't invested. And
12 they are trying to get \$2 billion from the
13 SBR, from the small business grants. And I
14 say what is wrong with this picture, why
15 don't they go after the 97 percent that the
16 SBA has funded.

17 I stand out here and I say as
18 someone that got a lot of grants like that
19 and received them, I don't see the purpose of
20 doing those things.

21 I see a class war going on between
22 the large companies and the smaller
23 companies. If I let the venture capitalists
24 do that, what is to stop Abbott Labs now from

1 being a venture capital firm? We have major
2 corporations in America today that are doing
3 that.

4 So what happens now when they want
5 to kill something? Let's look at what
6 happens. Illinois ranks 46 out of 50 states
7 in getting SBR grants. We don't write them
8 ourselves. So we have to be very careful
9 what we are doing. Because what happens is
10 if we do the technology here, it has been
11 moving to the east and west coast, especially
12 if you talk about some of the industries that
13 we are here to talk about today.

14 So I think that we ought to keep it
15 the way it is. We should make the SBR grants
16 for the people. It has been working in
17 phase I and phase II. And let the venture
18 capital people invest in phase III.

19 Thank you again for letting me come
20 here and speak. If you have any questions, I
21 will answer them.

22 MODERATOR EL-GABRI: Any questions?
23 Thank you.

24 Angelia Hopson.

1 MS. HOPSON: Thank you for giving me
2 the opportunity to speak to this committee.
3 My name is Angelia Hopson. I am the
4 president of Safety Solutions, Incorporated.

5 We are concerned about the proposed
6 size standards and its impact on our business
7 and other minority businesses around the
8 country. We feel the proposed size standard
9 would negatively impact small business'
10 ability to compete with large industry
11 competitors.

12 Additionally, it would affect our
13 ability to serve as subcontractors or second
14 tier suppliers to larger corporations as a
15 result of our size and scale. The trends in
16 the marketplace lend themselves to more
17 strategic sourcing, supply chain management
18 and supplier reduction. And the current and
19 proposed size standards would inhibit small
20 businesses from competing in this process,
21 thereby limiting our ability to grow our
22 business.

23 Therefore, we support the size
24 standards formula proposed by MBELDEF. Its

1 tiered approach offers a simplified solution
2 that makes sense to us.

3 MODERATOR EL-GABRI: Thank you. Any
4 questions? As we have emphasized in the
5 morning session, there have been no proposed
6 size standards on the table right now. The
7 purpose of these public hearings is to get
8 feedback and ideas among small business
9 partners in order for SBA to simplify the
10 size standards if that is the course we take.

11 If that happens, there will be a
12 notice in the Federal Register that small
13 businesses will see and be able to react to
14 at the time.

15 Dennis Bradley? Pat Haynes? Jackie
16 Dyess.

17 MS. DYESS: Good afternoon. Hi, I
18 am Jackie Dyess. I am the president of
19 Inter-City Supply Company. We are an
20 industrial supply distributor. We are here
21 in Chicago, Illinois. We are a small
22 minority-owned business and been in business
23 for 25 years. And we have been doing
24 business with the government and the private

1 sector for those 25 years.

2 What our concern is is that we have
3 not been successful with federal procurement
4 opportunities because in our area of
5 wholesale industrial supplies, the
6 opportunities are so large that we cannot
7 compete. Our manufacturers, who we
8 represent, bid directly on those contracts.
9 We would like an opportunity to have some of
10 those contracts set aside, set aside in the
11 sense where they are broken down into smaller
12 opportunities.

13 So we are suggesting the tiered
14 approach where we would have an opportunity
15 to bid on those things. And that is why we
16 would like to see the size standard changed.

17 We also feel that this solution will
18 help to continue to fuel the economy here in
19 Chicago and across the United States. We
20 feel we are in a technical part of this
21 economy as a small business.

22 Again, the approach that we have
23 looked at is the tiered approach. And we
24 have also looked at 5/10/5. And I know that

1 is not supposed to be on the table. So I
2 would leave that.

3 But we would like for an opportunity
4 to have some segregation of opportunities for
5 small businesses.

6 In addition, we are -- by doing
7 government contracting now locally,
8 regionally and on a state-wide basis, we know
9 we are very competitive corporation. And we
10 provide a very viable employer opportunity
11 here in the Chicago area and we need your
12 help to continue to grow and survive. Thank
13 you.

14 MODERATOR EL-GABRI: Thank you.

15 MS. McCULLOUGH: Are you saying you
16 support the 5/10/5 tier?

17 MS. DYESS: Yes, we support the
18 5/10/5.

19 MODERATOR EL-GABRI: Ms. Swopes.
20 Mr. Roy Wesley -- Dr. Roy Wesley.

21 DR. WESLEY: Hi. I would like to
22 address the issue of the majority-owned
23 venture capital companies and their
24 participation in the SBIR program.

1 As an independent small business
2 biotechnology company, Fermalogic has used
3 the traditional American entrepreneurial
4 system of friends and family for initial and
5 interim funding rather than relying on
6 venture capital funding.

7 We have had the good fortune to be
8 in the business for the past 14 years thanks
9 to friends and family and the SBIR program
10 from NIH in particular.

11 We are still a small business, so --
12 with a staff of eight people, four Ph.D.s and
13 four technical support personnel.

14 We also recognize in our area of
15 pharmaceutical biotechnology innovation and
16 new useful techniques or products require a
17 long time of approximately five to 20 years
18 for proper testing and development.

19 There are no quick solutions to
20 innovation. We have seen many companies
21 around us disappear because of venture
22 capital and investment needs for bringing
23 ideas and products quickly to market to
24 capitalize on an investment that does not

1 have any firm, scientific ground upon to
2 build.

3 We believe that slow and steady wins
4 the race. And I think small businesses such
5 as ours should have the opportunity to
6 compete for SBIR funding with similarly sized
7 businesses without major venture capital
8 involvement.

9 In my opinion majority-owned venture
10 capital funding would potentially take away
11 valuable resources from small businesses such
12 as ours by giving an unfair advantage to
13 companies with much larger technical,
14 personnel, administrative resources not
15 available to truly small businesses. It
16 results in unfair advantages for competition
17 for limited resources.

18 I would also like to address
19 goal directed versus research directed
20 research. Fernalogic has always been a
21 research-directed company which starts out
22 with goals to be accomplished but allows the
23 research direction to be given by the results
24 of the experiments that we do itself. Much

1 of the VC funded research is goal directed
2 and must as a consequence force the direction
3 of the results towards that goal or fail.

4 This is not the way science should
5 be done. Most of our work is improving
6 microbiological pharmaceutical processes to
7 either increase the yield for commercial
8 output of important pharmaceutical products
9 or discover new drugs.

10 Because our work is research
11 directed, there are many failures. But each
12 failure allows us to analyze, assess and then
13 come up with a new component of our
14 successful results, which is why we have
15 stayed away from goal directed venture
16 capital funding.

17 If this committee continues to see
18 basic research in the fields of science as
19 important to the future development of
20 innovative research that will keep America in
21 a position of leadership in the global
22 scientific community as I have described it,
23 then I ask the committee to consider
24 maintaining the initially proposed size

1 standards, not to permit majority-owned
2 venture capital participation in the SBIR
3 programs. Thank you.

4 MODERATOR EL-GABRI: Thank you. Any
5 questions? At this time I want to call up on
6 individuals who registered to testify in the
7 morning session and were not present but are
8 present now.

9 The first one that has signed in is
10 Jerry Wang.

11 MR. WANG: Good afternoon. My name
12 is Jerry Wang of Wang Engineering, Inc., in
13 Lombard, Illinois. We commend you for making
14 this effort to solicit feedback and input
15 from the community of small businesses that
16 you endeavor to help.

17 We are grateful for this opportunity
18 to provide our thoughts on the subject and
19 appreciate your sincere consideration of
20 them. We encourage you to keep focused on
21 what size and type of firms truly need the
22 most help and how that help can be delivered.

23 As you well appreciate and
24 acknowledge, many peoples' lives are now and

1 will continue to be affected by your course
2 of action.

3 Wang Engineering, Inc., is an 8-A
4 certified geotechnical and geoenvironmental
5 consulting services engineering firm
6 operating under the primary NAICS code
7 354133, which is for engineering services,
8 with a staff that ranges generally between 20
9 to 30 people. We have been in business for
10 22 years.

11 According to 13 CFR 121.01, the size
12 standard for this category is \$4 million in
13 gross revenue. We strongly urge that the
14 size limit be raised and that the line
15 standard be established on the basis of net
16 revenue rather than gross revenue. In our
17 terms the net revenue is gross revenue
18 subtracted or passed through subcontractor
19 costs.

20 We have employed the following
21 rationale to develop our recommendations. As
22 an example of how gross revenue has a
23 negative impact in mechanical and
24 environmental engineering service, we usually

1 subcontract the drilling, the boring the
2 holes, taking core examples and chemical
3 testing services to other firms. As required
4 by many states, including Illinois,
5 prevailing wage under the Davis-Bacon Act is
6 required for drilling work in Illinois,
7 particularly in Illinois since March of 2004.

8 Since that requirement is in place,
9 the sum of our subcontract in the typical
10 project now amounts to about two-thirds of
11 our gross budget, two-thirds. As such, a
12 4 million gross revenue would net us less
13 than 1.5 million. With wage there is a
14 little room for growth and will be unable to
15 employ a high caliber of people to compete.

16 Secondly, if will be in the best
17 interest of the small firm that needs the
18 most help of surviving today's competitive
19 marketplace, firms that generally employ
20 fewer than 75 people and generate revenue --
21 gross revenue up to about 10 million or net
22 revenue up 5 million.

23 Three, most environmental projects
24 have now been bundled into unusual sizes,

1 particularly in the federal sector. An 8-A
2 set-aside project often has a budget of
3 several million dollars, anywhere five to
4 \$10 million bundled together. A small
5 engineering service company such as ours very
6 often cannot compete for -- as a prime,
7 because if we were to win one of those, the
8 gross revenue it would immediately count
9 against our limits, size limits. Then our
10 company would immediately exceed the current
11 size limit, would no longer be eligible to
12 compete in any other project.

13 Four, if I may continue for a couple
14 minutes, the current size limit based on
15 gross revenue was established some time ago.
16 The 4 million size limit is no longer what it
17 was meant to be and should be raised even
18 just to account for inflation. Therefore,
19 the size limits should be raised in any case.

20 And whether gross revenue or net
21 revenue is established for the government gap
22 line, the upper limits should be adjusted for
23 inflation on a yearly basis.

24 Fifth -- thank you, just one more

1 point -- the engineering and architectural
2 services 541330 and 54131 I think -- 1310,
3 architectural and engineering services in the
4 proposed standard -- currently proposed
5 standard is 50 people maximum, \$7 billion in
6 gross revenue, while the -- while the
7 environmental services, which is something
8 like 5411364 or something and also other
9 services, their size limit is 50 people,
10 \$10 million. I don't see the difference
11 between the two groups of services, why one
12 should be 7 million and one should be
13 10 million.

14 So we respectfully ask your
15 consideration and your decision in revising
16 the small business standard engineering to
17 use of net revenue as the measurement and
18 allowing for yearly adjustment of a size
19 standard for inflation. Thank you.

20 MODERATOR EL-GABRI: Any questions
21 by the panel?

22 Grace Lewis.

23 MS. LEWIS: Thank you for attending.
24 I know George was asked earlier, but he is

1 not here. I am representing today.

2 My name is Grace Lewis, president of
3 G.T. Lewis & Associates. We are janitorial
4 chemical and safety suppliers. I am here to
5 testify on the size standards.

6 We are a Chicago-based company,
7 17 years in business, minority and women
8 owned. We have found that we are able to
9 compete, but we are not able to stay because
10 of the size standards. We have a small
11 company based of about seven employees. And
12 in order to compete with the bigger
13 companies, once we -- once they find out we
14 are minority and women, most of the time they
15 like to push us in the women category, which
16 is even smaller than the minority category.
17 And in order to compete on general contracts,
18 we have a very hard time because most of the
19 time, again, being labeled women and
20 minority, they want to keep you there.

21 I am in favor of a size standard
22 that is commensurate to trying to help small
23 businesses grow. We would like to grow at a
24 bigger rate. We would like to also use our

1 8-A certification. We have it. We have
2 never used it because again we have always
3 been pushed out of the process. That is
4 about it. Thank you for your time.

5 MODERATOR EL-GABRI: Thank you.

6 Christopher Kalmus.

7 MR. KALMUS: Thank you for this
8 opportunity. I have been a small businessman
9 all my life. My father started the small
10 business. I graduated from MIT. I went into
11 small business. So I have -- because of my
12 gray hair, you can tell I have some
13 experience with innovations, technology and
14 commercialization of technology.

15 I would like to say that I think
16 that the Small Business Administration's
17 51 percent U.S. owned guidelines are highly
18 appropriate. There is no reason our tax
19 dollars should go to create innovations
20 anyplace except in the United States.

21 Secondly, I believe that the
22 arguments that the size limitations are --
23 include affiliates and affiliations are
24 entirely appropriate.

1 The problem a small businessman has
2 is he is doing four, five, six jobs at one
3 time. There is a definite lack of resources
4 both in preparing grant proposals and also in
5 generating enough cash to actually pursue
6 R&D. I still think that.

7 All that being said, I have watched
8 over the last 25 years as corporate America
9 has totally disintermediated its R&D budgets
10 in terms of short-term profits.

11 In my opinion at this point in time,
12 most innovations in the U.S. Economy are
13 coming from small businesses. And venture
14 capital, Jerry Mitchell mentioned, they are
15 financial people, they run together in packs,
16 they invest in the same things everybody else
17 does. They are not innovators. They don't
18 understand technology. They don't know how
19 to get at the roots of technology.

20 And I sold a business in 1983. I
21 thought venture capital would be an
22 interesting thing for me to do. So I looked
23 at venture capital and realized it is not
24 named properly. It is not venture capital.

1 It is a later stage type of investing that
2 they are doing. They don't do basic
3 innovative types of investing. That is being
4 done by small businesses.

5 And on top of that, I have also
6 watched venture capital incoming cash rise
7 from two or \$3 billion yearly in excess of
8 \$50 billion a year today. They are not
9 hurting for cash. If they want to do
10 something innovative, they have more than
11 enough resources to put the money into to do
12 things that are innovative.

13 As I understand, the SBIR fund is
14 something in the \$2 billion range. They
15 really don't need to raid that. They have
16 got the backers. They have got their
17 reasons. They have got their cash available.
18 They should put their money where their mouth
19 is and put some of their money into
20 innovative type research and not try to find
21 other people's money to put into that.

22 I would say to summarize it, I think
23 that the SBIR program is a good program. It
24 has been a great program. It does what it is

1 supposed to do, it helps small companies
2 engage in innovations and commercialization.

3 I would add one other thing. In the
4 ownership structures, yes, I understand the
5 venture capital firms are slightly complex in
6 the way they are structured or set up.

7 People put money into multiple funds. And I
8 would just apply your 51 percent rule, if a
9 single institutional investor in a venture
10 capital company has more than 51 percent of
11 the investment, all added together, maybe one
12 fund is only ten percent, but in other funds
13 they have 90 percent, I would use
14 conglomeration rules and affiliation rules
15 and extend them so they would be all the
16 funds inside the venture capital firm.

17 You really don't want to have, you
18 know, large companies taking advantage of the
19 small company program. Any questions?

20 MODERATOR EL-GABRI: Thank you.

21 Anil Sinha.

22 MR. SINHA: Thank you very much for
23 giving me the opportunity. My name is Anil
24 Sinha. I am a Ph.D. from AKS Associates

1 International located in Chicago, Illinois.
2 And I have been in business with less -- for
3 less than three years. So I am very new to
4 this type of thing, the SBA and doing all
5 these things. I am a professor and I have
6 written several books in metallurgical
7 engineering.

8 But now it is survival and I have to
9 do something. And I am interested in
10 continuing the small business activities.

11 There are some observations which I
12 have noted and that should also be taken into
13 consideration. And number one is that large
14 businesses are receiving a small business
15 set-aside procurement of ours and government
16 agencies are receiving great amount of these
17 of ours. And that should not happen.

18 Number two, that defense or logistic
19 agencies have criteria that is for businesses
20 with up to 1,500 employees, mostly 500 and
21 over are set-aside for a small businesses.
22 And I never observed a small businesses limit
23 to ten employees or less employees. So in
24 the procurement, it could be solicitation.

1 So that limits our chances of getting the
2 set-aside business.

3 All of America is filled with the
4 manipulations by large businesses by grabbing
5 small business set-aside recruitments.

6 MODERATOR EL-GABRI: Excuse me,
7 could we focus on ideas on simplifying the
8 small business size standards? That is what
9 the focus is of the hearing is.

10 MR. SINHA: I will conclude in the
11 last, that the small business should be --

12 MODERATOR EL-GABRI: Maybe that
13 should be the focus. We will take your
14 written testimony and --

15 MR. SINHA: We are requesting that
16 the size limits should be decreased to 50,
17 not 100 or so like that because -- and also
18 there should be stricter regulations so that
19 who are defaulting, they should be penalized.
20 Most of the time the bigger corporations are
21 not getting penalized, only the smaller
22 people or smaller organizations which only
23 have a couple of people, they are being
24 penalized by the heavy fines from the

1 government agencies. And sometimes they
2 cancel the order or orders, but the
3 cancellation is not due to them -- due to the
4 contractor, but to them. But we are the
5 victims of that.

6 And 98 percent of the small -- of
7 all U.S. firms have only 100 employees --
8 less than 100 employees and 89 percent of
9 businesses have less than 20 employees. And
10 the average American firm has around ten
11 employees. So in that view the size must be
12 reduced.

13 And also the SBA discourse, which
14 are set by the government agencies, should
15 not be only applicable to the small
16 businesses, but it should be also for the
17 bigger firms.

18 So my request is that have the
19 discourse not be treated for the future for
20 the ours -- for the denial of ours. And also
21 the size of the small businesses should be
22 less. And it should be less than 50 in my
23 opinion.

24 And we are only a couple of

1 employees organization. And we want to
2 survive and we don't want to be killed
3 financially or by denial of such
4 opportunities in this vast land of
5 opportunities.

6 MODERATOR EL-GABRI: Thank you.

7 MR. SINHA: Thank you, sir.

8 MODERATOR EL-GABRI: Ms. Nellie
9 Vasquez-Roland. Nellie Vasquez-Roland?

10 Is there anyone else present who
11 would like to testify at this time?

12 Since no one else has expressed an
13 interest in testifying, I will read the
14 regional administrator's concluding remarks
15 and conclude by thanking you for
16 participating in today's hearings.

17 I assure you that SBA will carefully
18 study the testimony of today. Deliberations
19 on new size standards policy will commence at
20 the close of the final public hearing, which
21 is scheduled for June 29th, 2005, in Los
22 Angeles. And a new policy will be proposed
23 as quickly thereafter as possible.

24 The public will have an opportunity

1 to comment on any specific proposal we issue
2 in the future. And we will -- we encourage
3 you to do so since your participation in the
4 rulemaking process will help us do a better
5 job for you.

6 Once again, thank you and have a
7 good day. This public hearing is adjourned.

8 (End of proceedings.)
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1 STATE OF ILLINOIS)
) SS:
2 COUNTY OF LAKE)

3 I, Cheryl L. Sandeck, a Notary
4 Public within and for the County of Lake and
5 State of Illinois, and a Certified Shorthand
6 Reporter of the State of Illinois, do hereby
7 certify that I reported in shorthand the
8 proceedings had at the taking of said meeting
9 and that the foregoing is a true, complete,
10 and correct transcript of my shorthand notes
11 so taken as aforesaid, and contains all the
12 proceedings given at said meeting.

13
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15 _____
 Notary Public, Cook County, Illinois
 C.S.R. License No. 084-03710
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